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House of Representatives

The House met at 10 a.m.

The Reverend Ginger Gaines-Cirelli, Capitol Hill United Methodist Church, Washington, DC, offered the following prayer:

Holy God, in whom we live, move and have our being, we give You thanks and praise for the gift of life, for each new day in which the sun rises and sets affording ever new opportunities to begin again, to love more faithfully, to serve more humbly.

The world in which we live is indeed full of beauty and wonder, but we know that throughout the world there is great suffering and strife. So we pray that the work undertaken by this servant community today will, in ways large and small, bring relief and release to the afflicted.

O God, may a spirit of friendship and reconciliation guide the words and actions of these faithful public servants. Let their discernment over the difficult issues of our day be wise and loving. Grant them strength to persevere in the ways that make for peace.

In all Your holy names we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arkansas (Mr. SNYDER) come forward and lead the House in the Pledge of Allegiance.

Mr. SNYDER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REV. GINGER GAINES-CIRELLI

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Madam Speaker, a couple of years ago, at a time when the House was in session through the weekend, a group of us lonely, forlorn Members during the Christmas season on a Sunday morning ended up in the pews of the Capitol Hill United Methodist Church to be greeted warmly by our guest chaplain today, Rev. Ginger Gaines-Cirelli, and her husband. It was the only time I've heard a sermon in which the phrase, during the Christmas season, ''preggers by God'' was used.

We were delighted by her sermon, delighted by her warmth, and she is here with us today. She is a graduate of Southwestern University of Georgetown, Texas, received her master of divinity from Yale Divinity School. She has done church work all of her professional life. Her previous head pastoring job was in Rockville, Maryland. And she has now, for 7 years, with her husband, been the head pastor of the Capitol Hill United Methodist Church. We are very fortunate today to have Rev. Ginger Gaines-Cirelli as our guest pastor.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

OVERRIDE PRESIDENTIAL VETO ON SCHIP

(Mr. KAGEN asked and was given permission to address the House for 1 minute.)

Mr. KAGEN. Madam Speaker, tomorrow, this House will consider and answer the question, the most essential question of our time, What kind of Nation are we and which direction shall we move? Shall we guarantee access to health care to our Nation's children, who need it most? Shall we send our children to the costly emergency room or to their family physicians' offices to receive the care they so desperately require?

Whose side are you on? Failing to care for our Nation's children is morally unacceptable. This is the view of the March of Dimes; this is the view of Easter Seals, the faith communities throughout the country, and countless medical organizations across the land.

Tomorrow, I have the honor of representing the hopes and dreams and lives of 11 million children. Join us in overriding the Presidential veto. It's the right thing to do. And let's work together across the aisle to build a better future for all of us.

BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, I'm somewhat puzzled over an event held on Monday this week. The Government of Russia, the Government of China, and a U.N. agency gathered for a conference entitled ''Exploring Cooperative Approaches to Security in Space.'' I find this fascinating, ''Cooperative Approaches to Security in Space''; yet China, with Russia and India's help, is almost single-handedly propping up the brutal dictatorship of Burma.

This is a brutal dictatorship that uses ethnic minorities as human land mine sweepers, has destroyed 3,000 villages and has the highest number of child soldiers in the world.

Perhaps China, Russia, and the U.N. should help bring democracy to Burma, which would bring security and stability to that country, before trying to

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bring security in space. The suffering people of Burma deserve better, but apparently the Chinese and Russian Governments don't think so.

RESTORE ACT

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, today the House will debate the RESTORE Act, a bill that ensures the intelligence community has the tools that it needs to conduct surveillance of foreign targets outside of the United States, while at the same time restoring constitutional checks and balances that were omitted from the Bush administration's FISA bill.

I do not pretend that this is the perfect bill; few bills meet that standard. However, the President has made many false claims about it. For example, he has claimed that this bill will unnecessarily delay the collection of foreign intelligence information and may cause us to ''go dark'' while chasing leads. That's blatantly false.

The RESTORE Act allows for immediate collection in emergency situations without obtaining court approval, so we will never go dark. However, unlike current law, the RESTORE Act puts the FISA Court back in the business of protecting Americans' private communications, just as Congress intended when it created FISA.

To have a truly secure America, without compromising American values, we must fight terrorists without jeopardizing the civil liberties that make our Nation great.

I urge my colleagues to support this legislation.

RESTORE ACT

(Mr. BOUSTANY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUSTANY. Madam Speaker, Washington Democrats have once again shown their true colors on FISA. Spurred by the ACLU and their leftist liberal friends, Democrats released a weak and ill-conceived attempt at reforming our national security intelligence laws.

Today, advancements in satellite and fiber-optic technologies have led to incredible gains in every area of our society, including health care, economic expansion, education, and military operations. Unfortunately, though, our laws have not advanced and our intelligence community continues to face significant obstacles because of simplistic and antiquated laws.

Make no mistake, we live in a time when extremist groups continue to plot acts of terror against us both abroad and here at home. National Intelligence Director Mike McConnell outlined a list of obstacles he faces with the current FISA law and the tools he needs to correct these problems. Sadly, the bill proposed by the Democrats leaves our intelligence community in the dark. This is too important to play political games with foreign intelligence. We need to vote ''no'' on this bill.

SCHIP

(Ms. SCHWARTZ asked and was given permission to address the House for 1 minute.)

Ms. SCHWARTZ. Every day, hardworking moms and dads without health coverage worry about their children getting the care they need.

Under this President's watch, the number of uninsured children in this country has grown for the first time in years, and what has the President done? Nothing. That's right, nothing. This President has done nothing. Will Republican Members of Congress stand with the President and also do nothing, or will they stand with America's children? Ten million children and their families are waiting to find out.

□ 1015

A TRAGEDY OF OUR OWN MAKING

(Mr. AKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKIN. I rise to call attention to a tragedy of our own making. In May of this year, a U.S. soldier, Alex Jimenez, along with several of his friends, were captured by al Qaeda. As our intelligence officers wanted to tap into wires to try to find his whereabouts, they were hobbled and had to wait 10 hours for lawyers to get through the FISA Court to allow them to get the critical information they needed. That information lost, this soldier and his compatriots have never been found, although the bodies of one or two have been found.

The Democrats want to expand this FISA process now to our warfighting capabilities and hobble our soldiers to have to wait for hours and hours for lawyers to approve gathering information.

Back when I was in the State of Missouri, we had jokes between farmers and lawyers. They were kind of funny. But this is not a funny joke. How many lawyers does it take to rescue a hostage? The answer should be zero.

Now, the Democrats want to undermine our relationship with Turkey which will cripple our military's efforts.

If the Democrats want to pull our troops out of Iraq then have the courage to defund the war.

Otherwise, stop handicapping our military with bureaucratic red tape that will undermine their mission. The lives of our military personnel are on the line.

HOUSE DEMOCRATS PUT FISA COURT BACK IN BUSINESS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, today the House will put the Foreign Intelligence Surveillance Court back in business after being shut down for the past 6 years. House Democrats know that our highest duty is to defend this Nation and protect our citizens. And we also know we can keep this Nation safe without our own government trampling the civil rights of our citizens and the principles upon which this country was founded.

Before 2001, the FISA Court served as a check and balance to the administration to ensure that critical individual rights were not trampled. Such checks and balances have not been in place for the last 6 years. Today, by passing the RESTORE Act, we restore the true role of the FISA Court by addressing the concerns we have with the Bush administration ignoring the FISA Court, jeopardizing our rights, violating our Constitution, and our core principles.

Mr. Speaker, the RESTORE Act is a bill that all Members should be able to support. It provides a proper balance of giving our government the legal tools to go after terrorists without trampling our American beliefs and values.

UPDATE OUR INTELLIGENCE TOOLS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, in this day and age of new technologies and vicious unconventional terrorism, we need to provide our intelligence community with the tools and resources necessary to protect our families. That is why we must pass a permanent update to the Foreign Intelligence Surveillance Act that will protect the privacy of Americans while restoring our intelligence-gathering capabilities.

Unfortunately, the RESTORE Act, the Democrat FISA bill, jeopardizes our intelligence capability and provides unprecedented protections for terrorists. It is a step in the wrong direction. The Protect America Act signed into law in August made critical changes that help intelligence officials properly track our enemies. It should be extended.

The National Intelligence Director, Mike McConnell, said this law was urgently needed by our intelligence professionals to close critical gaps in our capabilities and permit them to more readily follow terrorist threats. We should keep American families safer and make these changes permanent.

In conclusion God bless our troops and we will never forget September the 11th.

BREAST CANCER AWARENESS MONTH

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, I rise today to recognize Breast Cancer Awareness Month. Virtually every American has been impacted in one way or another by this deadly disease. More than 3 million women currently live with breast cancer. Each year tens of thousands of our wives, our mothers, our daughters will die from it. One of our colleagues, Congresswoman Jo Ann Davis, was just taken before her time from breast cancer.

Unfortunately, despite medical advances, breast cancer remains the second leading cause of cancer death among American women. In the United States, one in seven will develop the disease during her lifetime. But still a cure remains elusive. Congress hasn't given up the fight. H.R. 1157, the Breast Cancer and Environmental Research Act, and H.R. 715, the Annie Fox Act, are two bills that would bring crucial Federal support to two key areas of breast cancer research: research into environmental causes of the disease, and research into the causes of the disease in young women who tend to develop more aggressive forms of it.

Additionally, in this year's Defense appropriations bill, $127.5 million was approved by the House for breast cancer research.

Women all over the country are organizing to raise national awareness. The Alexandria, Virginia Walk for Breast Cancer Awareness this Saturday is a prime example of the activism which is bound to make a difference in our daughters' lives.

MODERNIZING THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of South Carolina. Mr. Speaker, it has been 30 years since Congress first implemented FISA allowing the use of telecommunications technology against those who threaten the safety of our people and our way of life. The majority party has refused to believe that FISA needs to be modernized in a way that improves our intelligence agencies' capability to gather information, not hamper it.

When FISA passed 30 years ago, technology didn't include devices used now on an everyday basis. Just think, 10 years ago hardly anybody even owned a cell phone. The Director of National Intelligence testified before the House Judiciary Committee that if the government required FISA court orders for surveillance overseas, approximately 66 percent of the information normally collected would be lost.

Therefore, Congress should have its duty to update the tools used by our intelligence officials so that they have the ability to gather all the essential information to prevent future attacks. FISA needs to be modernized.

I encourage my colleagues on the floor today to vote against this flawed FISA bill.

HONORING THE MEMORY OF BRIGADIER GENERAL FELIX SPARKS

(Mr. PERLMUTTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERLMUTTER. Mr. Speaker, I rise today to honor the memory of an American hero, retired Army Reserve Brigadier General Felix Sparks, who recently passed away at the age of 90. Felix Sparks lived a remarkable life.

A Texas native raised in Arizona, he answered our Nation's call to duty in 1940 with his service in the 157th Infantry Regiment of the 45th Division during the Second World War. He fought in the battle of Reipertswiller, the Battle at the Caves of Anzio and also for the liberation of 30,000 prisoners in the Dachau concentration camp.

For his service, he was awarded a Silver Star and two Purple Hearts after being severely wounded on the battlefield. He continued his service in the National Guard until his retirement as a brigadier general in 1977.

Upon his return from the war, Felix and his wife settled in Colorado. Felix went on to become the youngest Supreme Court Justice in Colorado's history at 38 years of age. An expert in water law, he also served for over two decades as the director of the Colorado Water Conservation Board.

In closing, Felix Sparks was an extraordinary public servant who embodied the best of America.

THE RESTORE ACT FALLS SHORT

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, when we talk with our constituents, we are constantly hearing over and over, protect our freedoms, make certain that America is secure. Making certain that our homeland is secure is something that comes to the forefront this week.

The Democrat RESTORE Act does fall short. It falls short of what is needed to give our intelligence community the effective tools they need to detect and prevent terrorist activities. That is what we want to do, prevent it. This bill would restrict the intelligence community, and in many cases it gives the appearance of favoring those who do not have our best interests at heart. Is that a message that we would seek to send? Our intelligence community deserves the full resources of the Federal Government, not the red tape of a typical bureaucracy.

While we agree that proper oversight is necessary, oversight should never prohibit the men and women in the intelligence community from doing their jobs.

I encourage my Democrat colleagues to reconsider their support for the RESTORE Act.

CONGRESS AND THE CONSTITUTION

(Mr. YARMUTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YARMUTH. Mr. Speaker, 220 years ago when the Founding Fathers wrote the Constitution of the United States, they chose to create the United States Congress in its first article. That was their way of ensuring that we did try to form a more perfect Union.

Over the last few decades, Presidents and Congresses of both parties, through action and inaction, have allowed our system of checks and balances to go quite askew. Many of us believe that it has reached a tipping point. That is why we will over the next few weeks and months talk about article I, the article of the Constitution which vests all legislative power in a Congress of the United States elected by the people.

The Founding Fathers did not want to see peoples' lives be decided by one decider. They vested their power in the people through their representatives. Over the next few months, we hope to help reassert the authority that the Founding Fathers envisioned for this body.

BROADCASTER FREEDOM ACT DISCHARGE PETITION

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. The time has come to do away with the Fairness Doctrine once and for all. The Broadcaster Freedom Act that I introduced this summer would ensure that no future President could regulate the airwaves of America without an act of Congress. But it is yet to be scheduled for a vote.

Moments ago, along with the full Republican leadership and Congressman GREG WALDEN, I filed a discharge petition on the Broadcaster Freedom Act.

The American people should know that if 218 Members of Congress sign this petition, we can demand an up-or-down vote on legislation that would keep the so-called Fairness Doctrine from ever coming back. I say to my colleagues, if you oppose the Fairness Doctrine, sign the petition. If you cherish the national asset of American talk radio, sign the petition. But if you simply believe that broadcast freedom deserves an up-or-down vote on the floor of the people's House, sign the petition.

Because when freedom gets an up-or-down vote on the people's House floor,

freedom always wins. I urge my colleagues to sign the discharge petition for H.R. 2905, the Broadcaster Freedom Act.

SCHIP

(Mr. HODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HODES. Mr. Speaker, I rise today to urge my colleagues to exercise the power Congress has under article I of the Constitution and to override the President's veto of the Children's Health Insurance Program. This vote is significant because it underlines the difference between what the President values and what the American people value. To the President and his allies in Congress, $190 billion this year for the occupation in Iraq is a necessity. But $35 billion to provide health care to 10 million uninsured children in America is an extravagance.

If we are successful and we override that veto tomorrow, SCHIP will preserve the coverage of 11,892 children in my home State of New Hampshire and make funds available to cover an additional 8,720 kids. If we are not successful, I personally would like to invite President Bush and his allies in Congress to come home with me to Concord, New Hampshire, and explain to these 20,000 kids why they can't go to a doctor when they break a bone or get medicine when they are sick.

EARMARK MORATORIUM

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I introduced legislation last week with the gentleman from Kansas (Mr. MORAN) that would put a moratorium on earmarks until we have a process in place where we can fully vet all earmarks. Earlier this year, the chairman of the House Appropriations Committee said it was simply impossible, that we don't have the resources to investigate every earmark request. I agree. However, rather than approving thousands of earmarks, anyway, the prudent course would be to take a break and reevaluate the system.

Without the resources to vet over 11,000 earmarks in the House and Senate this year, bad earmarks are sure to slip through the cracks. Not only do these earmarks bring embarrassment to Members, they bring shame to the institution. Our constituents expect better of us. They should get it.

Mr. Speaker, the House has traditionally had a process of authorization, appropriation and oversight, a process that we have abandoned in recent years. Until we can get back to that system, we need to take a break from earmarks.

□ 1030

MISSOURI DAY 2007

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute.)

Mr. CARNAHAN. Mr. Speaker, on March 22, 1915, the Missouri General Assembly set aside the third Wednesday of October each year as Missouri Day. Due to the efforts of Mrs. Anna Korn, a native Missourian, Missouri Day is a time for schools to honor the State and for people in the State to celebrate the achievements of all Missourians.

I urge all those from the Show Me State to reflect on the bounty of our great State today and the achievements of Missourians past and present. For Missourians away from home here in Washington, please join fellow Missourians here in our Nation's Capitol tonight from 5:30–7:30 in 1710 Longworth for the Missouri Day 2007 celebration.

HAPPY ANNIVERSARY TO MY WIFE

(Mr. PEARCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. PEARCE. Mr. Speaker, among all the important decisions and dramatic debates of the day, I would like to pause and remember the personal occurrences that happen to each one of us as Americans, in our lives, each one of us as citizens of the world.

Today, October the 17th, is my anniversary, and I would speak to my wife, the wife of my youth, how I treasure the days of our lives together, the moments stolen from hectic days.

We have been richly blessed with health, home and happiness. We have freedom, good mental acuity, spiritual fulfillment and peace that flows through our lives. Our abiding joy in our Father, the Creator, our pleasure in our grandchildren, our sense of pride in our daughter, and our sense of love and respect for our son-in-law, all are deep wellsprings of cool water that refresh our lives and renew us daily.

My wife is the delight of my life, the sounding board of my ideas, the cause of laughter within me. She is the reason that I strive to be a better person. My wife is my partner in business, my partner in service and my partner in life. She is my wife, the wife that I treasure and love.

God bless my wife, and God bless all spouses who serve with us daily, and God bless this great country.

PROTECTING OUR LIBERTIES AND OUR SECURITY

(Mr. HOLT asked and was given permission to address the House for 1 minute.)

Mr. HOLT. Mr. Speaker, later today the House will vote on the RESTORE Act, on electronic surveillance, which its well-intentioned authors believe will help both protect our liberties and protect our security. It does the latter, but, unfortunately, does not fully do the former.

The bill includes a provision that could be used to spy on Americans without warrants. There is no need for us to pass in haste yet again a bill that does not protect the citizens. We must not give in to the politics of fear. I urge our leadership to make the changes necessary to this bill so that it protects our citizens from both enemy attacks and warrantless government surveillance.

Mr. Speaker, executive branch assurances that the rights of Americans will be protected through administrative procedures are no substitute for judicial protections. In recent weeks and months we have seen too many abuses of administrative warrants to find reassurance in that. We will have the best protection when agencies have to demonstrate to a court that they know what they are doing.

HONORING ERNA WELTE OF STILLWATER, MINNESOTA

(Mrs. BACHMANN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BACHMANN. Mr. Speaker, Minnesota is known as a State of great longevity. We have the longest married couple in the history of the United States living in my district. We also have some of the longest living people in the United States in my district. This week I had the occasion to wish one of my constituents happy birthday on her 102nd birthday.

I want to honor another constituent from my hometown who is 100 this week. I want to wish happy birthday to Erna Welte of Stillwater, Minnesota. She has seen the Great Depression, she has seen World War II, she has seen the space race. She has been alive before television and during television. She has seen it all. But Erna says, ''I don't feel that old.'' She's young at heart.

Just recently, when she celebrated 90 years of age, her granddaughter taught Erna how to drive a car. For the first time, she learned to drive a car. She's a wonderful, witty, wise individual, and I am so grateful for the senior citizens of the United States, particularly those long-living, happy people who live in my district.

Erna, happy birthday to you, and to our Nation's finest, our senior citizens.

SPENDING FOR CHILDREN'S HEALTH CARE VERSUS SPENDING IN IRAQ—A QUESTION OF PRIORITIES

(Mr. COHEN asked and was given permission to address the House for 1 minute.)

Mr. COHEN. Mr. Speaker, President Bush and congressional Republicans have no problem writing blank checks

for the war in Iraq, but ask them to prioritize the health care needs for 10 million low-income children, and they can't be bothered. Every month, every month we are spending $9 billion in Iraq that is borrowed from our children, because the President has always demanded that funding for the Iraq war be classified as emergency spending and, therefore, not subject to the pay-as-you-go rules.

Three-and-a-half months of Iraq war funding equals the funding needed to extend health care coverage to 10 million children over the next 5 years. Unlike the war, our children's health is fully paid for with absolutely no deficit spending; yet President Bush vetoed this bipartisan compromise because he said it included excessive spending.

Mr. Speaker, House Republicans need to show the President that there are other priorities in our Nation besides the never-ending war in Iraq. They should send that message by joining us tomorrow in overriding the President's veto and caring about our Nation's children.

TRIBUTE TO NEBRASKA NATIONAL GUARD 1074TH DIVISION

(Mr. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Nebraska. Mr. Speaker, on Friday October 12, the Nebraska National Guard's 1074th returned to a hero's homecoming in North Platte, Nebraska. The 1074th, headquartered out of North Platte, with detachments in Broken Bow, Ogallala, and Sidney, Nebraska, returned to Nebraska after a year-long deployment to Iraq. While in Iraq, the 1074th Transportation Company's primary missions were convoy security and local humanitarian support.

The 1074th tragically lost one of their own. Sergeant Randy J. Matheny, a native of McCook, Nebraska, made the ultimate sacrifice to his country on February 4, 2007. I join my fellow Nebraskans in offering my sincere sympathy and continued thoughts and prayers for the Matheny family.

The reception the 1074th received from families, friends and supporters upon their return to Nebraska was truly inspiring, as thousands, literally thousands of well-wishers welcomed these American heroes home in an incredible display of patriotism and pride. I wish to convey appreciation to the 1074th upon their safe return to Nebraska, and certainly commend Nebraskans for their amazing show of support in giving our soldiers the warm, heartfelt reception they deserve.

RESTORE ACT GIVES INTELLIGENCE COMMUNITY THE TOOLS IT NEEDS TO CONDUCT SURVEILLANCE

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, today we will restore some important checks and balances to our Nation's intelligence gathering. In August, the Bush administration pushed through Congress a last-minute bill that gave it the authority to go after Americans without warrants, a direct violation of our Nation's Constitution. The administration's bill included ambiguous language that could be read by some as authorizing warrantless domestic searches.

The RESTORE Act clarifies this language and specifically prohibits warrantless surveillance of Americans and requires a court order before targeting American's phone calls or e-mails. It also includes strong new audit and reporting requirements so that Congress knows whose conversations are being captured. We include all these protections, but we also ensure intelligence officials have the ability to conduct responsible surveillance under the law.

Mr. Speaker, every Member of Congress is committed to strengthening our intelligence community and ensuring they have tools they need to keep our country safe. But the RESTORE Act finds the proper balance and should receive strong bipartisan support today.

DISCHARGE PETITION FOR BROADCAST FREEDOM ACT

(Mr. WALDEN of Oregon asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDEN. Mr. Speaker, I join the Congressman from Indiana, my friend from Indiana, MIKE PENCE, in asking our colleagues to sign the discharge petition today to bring the Broadcast Freedom Act to the floor. The Broadcast Freedom Act builds on an initiative that was passed yesterday overwhelmingly by this House to protect the rights of reporters and their sources from government interference so that we can have a vibrant fourth estate, a vibrant press, and free and informed democracy.

Mr. Speaker, the Broadcast Freedom Act would prevent bureaucrats and government agencies from censoring and micromanaging what is said on the public's airwaves. It's all under the guise of restoring the Fairness Doctrine, or so-called, which had an incredible, incredible free speech problem that even the courts recognized. Yet, there are some who don't like what they hear on broadcast and TV talk shows, and the powerful elite in this city would like to restore the Fairness Doctrine. We cannot let that happen, not on religious broadcasters, not on liberal broadcasters, not on conservative broadcasters. Sign the discharge petition. Bring the Freedom Act up for a vote.

PROVIDING FOR CONSIDERATION OF H.R. 3773, RESTORE ACT OF 2007

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 746 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 746

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3773) to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. In lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution, modified by the amendment printed in part B of such report, shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour and 30 minutes of debate, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 3773 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore (Mr. SNYDER). The gentleman from Florida is recognized for 1 hour.

Mr. HASTINGS of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my namesake and good friend, the gentleman from Washington (Mr. HASTINGS). All time yielded during consideration of the rule is for debate only.

Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. HASTINGS of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the matter under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, House Resolution 746 provides for consideration of H.R. 3773, the RESTORE Act of 2007, under a closed rule. The rule provides 90 minutes of debate. Sixty minutes will be equally divided and controlled by the chairman and

ranking minority member of the Committee on the Judiciary. Thirty minutes will be equally divided and controlled by the chairman and ranking minority member of the House Permanent Select Committee on Intelligence.

Mr. Speaker, with the resurgence of al Qaeda and an increasing global threat from weapons of mass destruction in places such as Iran, every single person in this body wants to ensure that our intelligence professionals have the proper resources they need to protect our Nation. As vice chairman of the House Intelligence Committee, I assure you that every one of us on that panel and others, Republican or Democrat, are working tirelessly and often together to do just that. But the government is not exempt from the rule of law, as our Constitution confers certain unalienable rights and civil liberties to each of us.

After the terrorist attacks of September 11, the Bush administration upset that balance by ignoring the Foreign Intelligence Surveillance Act, commonly referred to as the FISA law, establishing a secret wiretapping program and refusing to work with Congress to make the program lawful. Democratic members of the Intelligence Committee, led by the distinguished chairperson, SYLVESTRE REYES, have been trying to learn about the Bush administration's FISA program for years. But the administration, which has been anything but forthcoming, has done everything it can to stop us from doing our job and helping them to do theirs better.

A footnote right there, Mr. Speaker. In today's Washington Post, it is reflected as late as now, when the RESTORE Act is on the floor, the administration has agreed to give certain information to the Senate and still not to the House.

When the administration finally came to Congress to modify the law, it came with the flawed proposal to allow sweeping authority to eavesdrop on Americans' communications, while doing almost nothing to protect their rights. The RESTORE Act, true to its name, restores the checks and balances on the executive branch, enhancing our security and preserving our liberty. It rejects the false statement that we must sacrifice liberty to be secure. It does not go as far as I would want it to go. It does not go as far as some people would like for it to go, but it does protect our liberty and secures this Nation.

The legislation provides our intelligence community with the tools it needs to identify and disrupt terrorist attacks with speed and agility.

Yet another footnote, Mr. Speaker. While we concentrate on surveillance as it pertains to wire, I would have people know that the terrorists by now have been pretty well educated about these matters and may very well be using other methodologies totally unrelated to the telephone.

I remind people when it was leaked to the media that Osama bin Laden was using a certain kind of wire, he hasn't been heard from in that forum since. So let's be very cautious to not put all our eggs in the surveillance basket. There are other methodologies that might be employed that I assure you the intelligence community is mindful of and right on as it pertains to discovering them.

□ 1045

It provides additional resources to the Department of Justice, the National Security Agency and the FISA Court to assist in auditing and streamlining the FISA application process while preventing the backlog of critical intelligence gathering.

The RESTORE Act prohibits the warrantless electronic surveillance of Americans in the United States, including their medical records, homes and offices. And it requires the government to establish a recordkeeping system to track instances where information identifying U.S. citizens is disseminated.

This bill preserves the role of the FISA Court as an independent check on the government to prevent it from infringing on the rights of Americans. It rejects the administration's belief that the court should be a rubber stamp.

Finally, the bill sunsets in 2009. This is a critical provision because it requires the constant oversight and regular evaluation of our FISA laws, actions which were largely neglected during the last 6 years of Republican rule.

Mr. Speaker, all the American people have to do is pick up a newspaper to read about what happens when this government has unfettered access to warrantless electronic surveillance. According to a letter to Congress from a company executive, Verizon alone has fielded almost 240,000 phone record requests from the FBI since 2005. Nearly 64,000 of these requests, or over one-quarter of them, were made without a warrant.

This is almost 100 phone record requests per day by our government to Verizon seeking private information about our citizens, without a warrant. Realize, we are just talking about requests made to Verizon by the FBI. And these are just the requests that Verizon told Congress about this week because the Bush administration has consistently refused to answer our questions about the President's program.

Even more, it doesn't factor in the hundreds of thousands of requests that were made to other phone companies during the same time that we don't know about.

Mr. Speaker, if we have learned anything since the terrorist attacks of September 11, it is that the balance between security and civil liberties is not only difficult, but absolutely critical.

The RESTORE Act does absolutely nothing to block or hinder the efforts of our intelligence community. And Member after Member on the other side of the aisle are going to come down here and comment that it is hampering our intelligence efforts. Quite the contrary. It enhances their ability to do their jobs effectively and ensures the integrity of their efforts. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I want to thank my good friend and namesake, Mr. HASTINGS, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, yesterday the Rules Committee held a hearing to consider a rule for H.R. 3773, the RESTORE Act. At the outset of the hearing, the chairwoman of the Rules Committee did something that Republicans would not have even contemplated when we were in the majority.

Before Members of Congress even had an opportunity to testify before the Rules Committee, the chairwoman announced that the rule would be closed. She further went on to say no notice was sent out seeking amendments from Members, yet at least 27 amendments on a bipartisan basis were submitted to the committee. I guess, Mr. Speaker, we know now that no amendment announcement is code for no opportunity for meaningful, open debate. While surprising, this action is, unfortunately, not unprecedented for this Democrat-controlled Rules Committee.

I would like to thank all Members for submitting their thoughtful amendments on behalf of those they represent. And I especially would like to thank the Members who chose to stay and testify despite learning from the very start that their amendments would not be made in order.

It is sad that yesterday the minds and ears of the Democrat members of the Rules Committee were closed to even allowing for the consideration of amendments and alternatives to legislation, important legislation aimed at closing loopholes and strengthening our national intelligence capabilities.

Mr. Speaker, in 1978 Congress enacted the Foreign Intelligence Surveillance Act, or FISA, to establish a procedure for electronic surveillance of international communications. As enacted into law, FISA had two principle purposes: First, to protect the civil liberties of Americans by requiring the government to first obtain a court order before collecting electronic intelligence on U.S. citizens in our country. Second, the law specified how intelligence officials, working to protect our national security, could collect information on foreign persons in foreign places without having to get a warrant.

The intent of the original FISA law was to enhance American security while at the same time protecting American privacy. Recognizing that no

responsibility of the Federal Government is more important than providing for the defense and security of the American people, Congress should be doing all it can to ensure that FISA continues to reflect the intent of the original law.

In the nearly 30 years since FISA became law, we have seen tremendous advances in communication technology such as the Internet, cell phones and e-mail. However, under the original FISA law, our intelligence officials are not free to monitor foreign terrorists in foreign countries without a court order because of advances in communication technology. It is clear that our FISA laws are outdated and must be modernized to reflect changes in communication technology over the past three decades.

In August, Congress in a bipartisan manner took an important first step forward to close our Nation's intelligence gap; but, unfortunately, only for a 6-month period. The Protect America Act passed only after repeated attempts by Republicans to give our Nation's intelligence professionals the tools and the authority they need to protect our homeland. This action was long overdue and this law marked a significant step towards improving our security.

Now Congress must act again to renew this law by early next year before it expires or our national security will once again be at risk. Unfortunately, the legislation before us today, the RESTORE Act, does not provide the security we need to protect our troops and our Nation from a potential future terrorist attack. The bill also weakens Americans' privacy protections and fails to permanently close our Nation's intelligence gap.

Specifically, Mr. Speaker, the RESTORE Act does not go far enough to reform outdated FISA regulations that burden our troops in the battlefield. It contains no provision for third parties to challenge FISA court orders. The bill also creates a centralized database that could actually increase the risk of privacy violations. Another major concern is that the RESTORE Act contains yet another sunset provision that forces the bill to expire on December 31, 2009, unnecessarily leaving our intelligence officials without the tools they need to protect Americans.

It is alarming to me that this rule brings a bill to the House floor that goes so far as to weaken American privacy provisions while at the same time strengthening protections of our enemies in times of war.

Mr. Speaker, as I mentioned earlier, nearly 30 amendments were submitted by Members on both sides of the aisle to address these and other concerns with the Democrat majority's failed attempt to update our current FISA laws. However, none of these amendments, which ranged from permanently strengthening our FISA laws to acquiring communications of foreign terrorists in foreign countries without a FISA court order, were allowed to be considered on the House floor today under this rule.

Mr. Speaker, it is truly disappointing to me that every Member of this House is prohibited from offering changes to this bill that could make it more effective in our constant battle to prevent a future terrorist attack against our Nation. After all, if we cannot come together and work in a bipartisan manner on issues as important as improving our national security, then what can we work together on.

Sadly, because the Democrat majority has chosen to consider the RESTORE Act under this closed process, working together in a bipartisan manner will not be possible. Instead, if this rule is adopted, Members will only have a choice to vote for or against a seriously flawed bill that threatens, not improves, our national security. Sadly, this closed process shuts out all American voices from being heard and, ultimately, every American could suffer consequences if this rule and bill are adopted. Therefore, I urge my colleagues to vote against the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, before I yield, I would like to assist my colleague from Washington, who is my good friend and was in the majority last year when the Wilson bill, H.R. 5825, the Electronic Surveillance Modernization Act, was considered by the House. It was considered under a closed rule, H. Res. 1052, which self-executed an amendment in the nature of a substitute in lieu of amendments recommended by the Judiciary and Intelligence Committees. I think that is the precedent.

Mr. Speaker, I am very pleased to yield 2½ minutes to the gentleman from New Jersey (Mr. PASCRELL), my very good friend who serves on the Ways and Means Committee and the Homeland Security Committee.

Mr. PASCRELL. Mr. Speaker, I thank my friend from Florida, and I rise this morning to speak in favor of the rule on the RESTORE Act, H.R. 3773. I believe this is an appropriate rule given the large number of amendments that were considered in both the House Judiciary and Intelligence Committees.

I want to highlight some of the most important provisions in the bill provided through this rule and steps that I believe can be taken to strengthen the intent of the legislation.

Mr. Speaker, section 5 of the current legislation requires quarterly audits by the Justice Department Inspector General on communications collected under this legislation, which would then be provided to the FISA Court and to Congress. In the end, the issue is that without outside oversight, such as the FISA Court, you put a huge amount of authority in the hands of a very small number of people and leave an awful lot to their individual judgment in dealing with very sensitive issues of personal privacy.

I hope that under this section the Justice Department Inspector General would also be inclined to include statistical information, as is possible, relating to the sex, race, ethnicity, religion and age of U.S. persons identified in intelligence reports obtained pursuant to the legislation. This data will help our intelligence agencies, the FISA Court and the Congress to gain a clear overview of intelligence collection on Americans swept up through these types of investigations and would create the necessary oversight to judge whether a pattern of profiling is occurring.

I want to draw attention to the Schakowsky amendment which was approved by the Intelligence Committee. This would require that the FISA Court approve guidelines to ensure that an individual FISA court order is sought when the significant purpose of an acquisition is to acquire the communications of a specific U.S. person reasonably believed to be located in the United States.

□ 1100

This is a vital provision to the bill that makes clear that no American can be the target of surveillance under this bill unless an individual warrant is obtained from the FISA Court.

Under this provision, I hope we will also make clear the sensitivity surrounding communications between Americans and family members who may live abroad. We need to make certain that no American, regardless of their foreign family connections, can be the target of surveillance without an individual warrant being obtained from the FISA Court.

We're not trying to protect foreigners. We're trying to protect Americans and safeguarding the Constitution.

I thank the Speaker for the time. I want to thank you, and I hope that the Members will approve the appropriate rule on the RESTORE Act. I thank my friend.

Mr. HASTINGS of Washington. Mr. Speaker, how much time is there on both sides?

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) has 23 minutes remaining, and the gentleman from Florida (Mr. HASTINGS) has 19 minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I'm pleased to yield 4 minutes to the distinguished ranking member of the Rules Committee, Mr. DREIER of California.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank my friend from Pasco for yielding and congratulate the Hastings cousins for their management of this very, very important measure.

Mr. Speaker, yesterday afternoon eight of our colleagues sat before the dais of the Rules Committee with 27 different proposed amendments that

they wanted to offer to improve this very important measure, to work in a bipartisan way to improve it. Before they were able to utter their first words, they were told in response to a question that came from our friend from Pasco, Mr. HASTINGS, that this was going to be a closed rule.

Now, Mr. Speaker, a closed rule means that no amendment is offered. No alternative proposal is allowed at all. We simply get the measure that is before us, and that is it. Now, that's when there were 27 different amendments that were proposed and, as I said, eight Members waiting to offer and discuss their ideas. They were completely shut out from that.

Now, Mr. Speaker, it saddens me to report to this House that we, today, have achieved something that is not great for this institution. As of today, Mr. Speaker, in the 110th Congress, we have had more closed rules in a single session of the United States House of Representatives than we have in the 218-year history of this great institution. The sad thing about that, Mr. Speaker, is the fact that we were promised something much different, and this bill is critically important for our Nation's security.

One of the very thoughtful proposals to come forward made great sense. It's the idea of saying that when the government asked the private sector to help us work to interdict those communications taking place among people who are trying to kill us, terrorists who are trying to kill us, we should allow them to do that. We should allow them to have immunity from the threat of prosecution if that, in fact, is being utilized. But unfortunately, our colleagues on the other side of the aisle have failed to allow that proposal, for those people who were asked by the government to help us win the global war on terror, to make sure that Osama bin Laden and other terrorists do not have the potential to kill us.

And now what we've been told, and I heard countless Democrats say, oh, these people in the telecommunications industry, they've got enough money, they're making enough money, let them stand on their own. Well, Mr. Speaker, that is just plain wrong, and we, unfortunately, with this rule, are not even allowed a chance to debate that, which, to me, is absolutely outrageous.

What we have before us, Mr. Speaker, is a closed rule on a bad bill that can't become law. Tragically, that's a pattern that we have been facing for a while. The exact same thing has happened on the bill that we're going to be voting after it was sent here 2 weeks ago on SCHIP legislation. We're going to be voting on that tomorrow.

So, Mr. Speaker, let me just say again, this is a closed rule on a bad bill that can't become law. We've got to defeat this rule. We've got to make sure that those people who are working to keep this country safe have all the tools necessary to make that happen.

Mr. HASTINGS of Florida. Mr. Speaker, I make one reference to the Computer and Communications Industry Association which writes in support of the House Judiciary Committee's approach to retroactive immunity, contrary to what the previous speaker, my good friend, the ranking member, just said regarding that matter.

Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey, a distinguished member of the Intelligence Committee, my good friend Rush Holt, who is also Chair of the Special Intelligence Oversight Committee.

Mr. HOLT. Mr. Speaker, I thank the gentleman.

The RESTORE Act, which its well-meaning authors believe will both help protect our liberties and our security, does the latter but, unfortunately, does not fully do the former. If I had more time, I would talk about the good features of this bill, but in the time I have, I would like to point to the one thing that it needs most, that it lacks, which is ironclad language that maintains the fourth amendment's individual warrant requirement when Americans' property or communications are searched and seized by the government.

The RESTORE Act would allow the government to collect the communications of innocent Americans. The executive branch assurances that the rights of Americans will be protected through administrative procedures are no substitute for judicial protections. In recent weeks and months, we've seen too many abuses of administrative warrants to find any reassurance or to even find these assurances believable.

Yes, I voted ''yes'' in committee to bring this to the floor, with the assurances that we would work to get it better. I regret to say that I've seen no effort to resolve this point. It could be fixed easily to the safety of Americans, because Americans will be safer when agencies have to demonstrate to a court that they know what they are doing. We get better intelligence, just as we get better law enforcement, when you do it by the rules.

In fact, my own leadership I believe would deny me time to speak on this issue to try to strengthen this bill, but for the sake of the security of Americans, I implore the leadership to make these improvements.

Mr. HASTINGS of Washington. Mr. Speaker, I'm pleased to yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

(Mr. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in strong opposition to this rule and the underlying legislation.

I stand before the House as a member of Mr. HOLT's new House Special Intelligence Oversight Panel and as a lifelong resident of New Jersey, a State which is still feeling the heartrending damage of September 11, 2001. We will never forget what happened that day, and I work each and every day to prevent another such attack.

I recognize that achieving the proper balance between our national security and our civil liberties is a real challenge, but we must also recognize that our war against violent international extremists is the first conflict of the information age.

With our technical assets and expertise, the United States is far better at gathering information at this point in history than our enemies. This is an advantage we must exploit to better protect the American people from those who would do us harm.

Then why are we on the floor debating a rule on legislation that essentially amounts to unilateral disarmament on our part?

Last August, Congress enacted the Protect America Act, legislation that sought to modernize the old Foreign Intelligence Surveillance Act, FISA, and closed dangerous loopholes that prevented our intelligence community from monitoring overseas communications between al Qaeda members and other terrorist groups plotting and planning their next attack on U.S. citizens and our interests at home and abroad. These were not conversations involving Americans. These were communications between foreign targets overseas.

Director of National Intelligence McConnell asked Congress to ''make clear that court orders are not necessary to effectively collect foreign intelligence about foreign targets overseas.'' I repeat, ''foreign intelligence about foreign targets overseas.''

But this new proposed legislation would not only undo the progress made by the Protect America Act, but it would do further damage to our collection efforts.

Since it was enacted in 1978, FISA never required our government to acquire court orders for foreign communications of persons reasonably believed to be outside the United States. This bill would require such a court order, thus gutting 30 years of foreign intelligence collection.

Once again, Mr. Speaker, I understand that achieving the proper balance between our national security and our civil liberties is a challenging task. I believe the Protect America Act achieved this goal. The bill required a warrant to target a person in the United States but allowed U.S. intelligence agencies to listen to foreign persons in foreign countries.

Why is this important? Because speed matters in a war on terrorism, where terrorists are using our communications networks, not theirs, in order to try to harm us. This is not about politics. It's about ensuring that we give our security personnel the tools they need to help protect our families from future terrorist attacks.

Mr. Speaker, unfortunately, I fear the RESTORE Act will live up to its

name. It will restore our intelligence community to the days when their hands were tied and they could not monitor the communications of al Qaeda members and other terrorists overseas without lengthy legalistic procedural delays.

Terrorism is an international threat that requires (international) technology to solve.

I urge my colleagues to restore our intelligence community's hard-earned technological advantage over al Qaeda and their murderous comrades. Protect America.

I urge defeat of this rule and rejection of the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the distinguished chairperson of the Intelligence Committee, SILVESTRE REYES.

Mr. REYES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, due to an administrative error, the following cosponsors were left off the list of cosponsors for this bill, H.R. 3773: Representative ANNA ESHOO from California; Representative DUTCH RUPPERSBERGER from Maryland; Representative DENNIS MOORE from Kansas; Representative CIRO RODRIGUEZ from Texas; Representative EARL POMEROY from North Dakota; Representative LEONARD BOSWELL from Iowa; Representative BARON HILL from Indiana; and Representative PATRICK MURPHY from Pennsylvania.

I would like to thank them for their cosponsorship and ask that they be recognized as such, and I would finish up by saying this is a good rule. This is also a good bill that balances the ability to protect our country with the ability to protect the civil rights of its citizens.

Mr. HASTINGS of Washington. Mr. Speaker, I'm pleased to yield 4 minutes to the gentleman from California (Mr. ROYCE), a member of the Foreign Affairs Committee.

Mr. ROYCE. Mr. Speaker, I thank the gentleman. I'm rising to oppose the rule.

For the first time, this bill would stop intelligence professionals from conducting surveillance of foreign persons in foreign countries unless they can read the mind of their terrorist targets and guarantee that they would not call the United States or one of their people in the United States. This is more protection than Americans get under court-ordered warrants in mob and other criminal cases.

So the issue we're debating today is very important. It is a matter of life and death essentially.

I serve as ranking member of the Terrorism and Nonproliferation Subcommittee. That there has not been a terrorist attack on our soil since 9/11 is due to the improved surveillance in real-time that we're able to conduct against foreign terrorists.

That good record, though, in no way should lead us to discount the jihadists, because the image of Osama bin Laden's allies operating in some remote terrain somewhere may give the impression that our foes are isolated. They are not isolated.

We are confronting a virtual caliphate. Radical jihadists are physically dispersed, but they're united through the Internet, and they use that tool to recruit and plot their terrorist attacks. They use electronic communications for just such a purpose, and they're very sophisticated in that use.

So how has the West attempted to confront that? Well, the British use electronic surveillance in real-time, and they used it last year to stop the attack on 10 transatlantic flights. They prevented that attack in August of last year by wiretapping.

The French authorities used wiretaps to lure jihadists basically into custody and prevented a bomb attack.

Given this threat, it is unfathomable that we'd weaken our most effective preventative tool, and that's exactly what this bill does.

Before we passed the Protect America Act in August, the Director of National Intelligence told Congress that we are losing up to two-thirds of our intelligence on terrorist targets. Admiral McConnell went on to testify, ''We're actually missing a significant portion of what we should be getting.''

Though Admiral McConnell has served both Democrat and Republican administrations with distinction, now his credibility has been attacked. I'd ask those so distrustful: Go ahead, discount his estimate, cut them in half, say we'd lose one-third of our intelligence by passing this bill. Isn't that too much to give up? I don't want to lose a single percent of our intelligence on terrorist communications. With nuclear and biological material floating around this globe, we don't have that margin of error.

We've heard the ACLU concerns, but before we unilaterally disarm, before we hobble our ability to listen in real-time to the very real terrorists who are attacking our troops in Iraq every day, shouldn't we have something of an accounting of the supposed civil liberties price we're paying? Frankly, I don't see the troubling cases.

What I do see is the very misguided concern for the civil liberties of foreigners having conversations with terrorists.

This bill grants privacy protection to foreigners, those believed to be terrorists, by requiring the intelligence community to seek court orders to collect foreign intelligence on foreign targets.

□ 1115

This process in the past has clogged the FISA Court, it has wasted untold intelligence hours, it has pulled Arabic and Urdu and Farsi speakers off of listening to terrorist cases and put them on filing hundreds of pages of paperwork. FISA restrictions hindered the search for kidnapped Americans in Iraq.

My colleagues, it has come down to this: Are we interested in best protecting American lives, or giving away privacy rights to foreigners involved in conversations with terrorists?

Mr. HASTINGS of Florida. Mr. Speaker, I yield to my distinguished friend and colleague from Texas, SHEILA JACKSON-LEE, 1 minute. But before I do, I would like to have Mr. ROYCE understand that he is entitled to his opinion but he is not entitled to his facts. And the facts as he recited them with reference to what Director O'Connell said occurred under the old FISA law, not this one. And I might add, that old FISA law was good enough to participate in bringing down the German possible terrorists.

With that in mind, I would like to yield 1 minute to the distinguished gentlelady from Houston, Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Let me thank the distinguished gentleman from Florida, a former jurist, and let me acknowledge that the RESTORE Act is the right balance between national security and the protection of our civil liberties.

I beg to differ with my good friend from California because in fact there are elements of this bill that clearly provide the parameters for foreign-to-foreign surveillance. The only difference is the fact that we protect an American citizen who may be targeted inappropriately as the court intervenes in providing a warrant.

My friends, we are moving forward to secure America. I support this rule and I support the rule in its present form, because we need to now substitute a real bill that secures America supported by the language of Director McConnell and as well provides the civil liberties that all Americans deserve. I look forward to the debate on the floor. The RESTORE Act is what it is says, protecting us and providing the right surveillance and ensuring that terrorists do not attack America.

Mr. Speaker, I rise in support H. Res. 746, the rule governing debate on H.R. 3773, the RESTORE Act. I thank the gentlemen for yielding and wish to use my time to discuss an important improvement in the bill that was adopted in the full Judiciary Committee markup.

The Jackson-Lee Amendment added during the markup makes a constructive contribution to this important legislation that already is superior to the misnamed ''Protect America Act'' by orders of magnitude. It does this simply by laying down a clear, objective criterion for the Administration to follow and the FISA court to enforce in preventing reverse targeting.

''Reverse targeting,'' a concept well known to members of this Committee but not so well understood by those less steeped in the arcana of electronic surveillance, is the practice where the government targets foreigners without a warrant while its actual purpose is to collect information on certain U.S. persons.

One of the major concerns that libertarians and classical conservatives, as well as progressives and civil liberties organizations, have with the PAA is that the understandable temptation of national security agencies to engage in reverse targeting may be difficult to

resist in the absence of strong safeguards in the PAA to prevent it.

My amendment reduces even further any such temptation to resort to reverse targeting by requiring the Administration to obtain a regular, individualized FISA warrant whenever the ''real'' target of the surveillance is a person in the United States.

The amendment achieves this objective by requiring the Administration to obtain a regular FISA warrant whenever a ''significant purpose of an acquisition is to acquire the communications of a specific person reasonably believed to be located in the United States.'' The current language in the bill provides that a warrant be obtained only when the Government ''seeks to conduct electronic surveillance'' of a person reasonably believed to be located in the United States.

It was far from clear how the operative language ''seeks to'' is to be interpreted. In contrast, the language used in my amendment, ''significant purpose,'' is a term of art that has long been a staple of FISA jurisprudence and thus is well known and readily applied by the agencies, legal practitioners, and the FISA Court. Thus, the Jackson Lee Amendment provides a clearer, more objective, criterion for the Administration to follow and the FISA court to enforce to prevent the practice of reverse targeting without a warrant, which all of us can agree should not be permitted.

I hasten to add, Mr. Speaker, that nothing in the bill or in my amendment will requires the Government to obtain a FISA order for every overseas target on the off chance that they might pick up a call into or from the United States. Rather, the bill requires, as our amendment makes clear, a FISA order only where there is a particular, known person in the United States at the other end of the foreign target's calls in whom the Government has a significant interest such that a significant purpose of the surveillance has become to acquire that person's communications.

This will usually happen over time and the Government will have the time to get an order while continuing its surveillance. And it is the national security interest to require it to obtain an order at that point, so that it can lawfully acquire all of the target person's communications rather than continuing to listen to only some of them.

In short, my amendment gives the Government precisely what Director of National Intelligence McConnell asked for when he testified before the Senate Judiciary Committee:

''It is very important to me; it is very important to members of this Committee. We should be required—we should be required in all cases to have a warrant anytime there is surveillance of a US [sic] person located in the United States.''

In short, my amendment makes a good bill even better. For these reasons, I am happy to support the rule and urge all members to do likewise.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. TIAHRT), a member of the Intelligence Committee.

Mr. TIAHRT. I thank the gentleman from Washington.

I rise in strong opposition to this bill. I am extremely concerned about our national security and I am deeply troubled that our intelligence community will be prevented from doing the job they need to do to protect Americans by this bill. For that reason, I strongly oppose the RESTORE Act as it will only further tie the hands of our intelligence community.

If this bill passes, Congress would depart from the recommendations of the 9/11 Commission by making it more difficult and cumbersome to gather intelligence on Islamic terrorists. Our most important job here is to provide the tools to those charged with protecting our Nation and keeping us safe from those threats. In the last 6 years we have been kept safe in this country because we have had a sharp edge on the tools that we have been using to peel back the layers of secrecy on terrorists and terrorist organizations.

This bill requires a court order to gather communications when a foreign terrorist in a foreign country tries to contact somebody in the United States. Since 1978, from President Carter to President Clinton, there was never a concern. Yet now, after we have had attacks on our U.S. soil and are well aware there are terrorist cells in our homeland, the Democrats want to prevent the intelligence community from intercepting communications of foreign terrorists.

To my knowledge, no violation of civil rights has occurred in the FISA process. However, as this bill is written, the Democrats have opened the door for alarming violations of civil liberties by requiring the intelligence community to compile a database of reports on the identities of U.S. citizens that have inadvertently been accumulated in the process of gathering information. As the Washington Times noted this morning, apparently pandering to the left-wing blogosphere and the ACLU is a higher priority than the safety of Americans and even American GIs fighting al Qaeda.

Normally, under current guidelines, the intelligence community blacks out all these names and they never get distributed anywhere. They are just simply eliminated from the database. But now, under this bill, we see the Democrats requiring a list be sent to Congress. And we all know that we have had leaks here in Congress. You would think the ACLU would be opposed not only to compiling such a list but distributing it to Congress. We have had leaks related to the way we collect information on individuals through electronic conversations, we have had leaks about how we have e-mails that have been reviewed on terrorist Web sites, we have had leaks that caused our allies in Europe to no longer cooperate when it comes to tracking terrorist financing. For us to give this type of information to Congress would almost certainly guarantee a leak and a violation of the civil liberties of those individuals who it inadvertently picked up in the process of trying to find terrorists working within our country trying to do harm.

This is a bad bill. It goes back and dulls the tools, this edge that we have been using to keep the country safe. If it is passed and it becomes law, I would fear for the safety of this country because dulling the tools that have kept us safe for 6 years would put us in a much more vulnerable position than we are today.

Over 2 months ago, the DNI, Mike McConnell, the man charged with overseeing the intelligence community, urged us to modernize the FISA law. But this does not do it. This sets us backwards.

Mr. HASTINGS of Florida. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Florida controls 15 minutes. The gentleman from Washington controls 9½ minutes.

Mr. HASTINGS of Florida. Mr. Speaker, I am prepared to reserve my time. And as a matter of courtesy to my good friend from Washington and to you, Mr. Speaker, I would like to indicate that I will be replaced in managing the time, although not required under the rules, by my distinguished colleague from New York, MICHAEL ARCURI.

I reserve my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 minutes to another member of the Intelligence Committee, Mr. ROGERS of Michigan.

Mr. ROGERS of Michigan. I want to commend Mr. HASTINGS. We have worked on many issues of which we have agreed strongly in the betterment of national security. I couldn't more strongly disagree with this bill and where we are going today.

As one of the very few people on this floor that has actually gone out and developed sources and developed the leads that you possibly need to develop probable cause as a former FBI agent to either bug or intercept phones, offices, or other privileges communications between Americans, I can tell you the long and arduous process it takes to develop that, to go to the judge and say, Your Honor, I do believe that these people are engaged in criminal activities and here is why. And it takes months and months and months. So let me tell you what this bill does today that is so disturbing.

Non-United States citizens who are insurgents in Iraq building IEDs that our troops are trying to intercept electronically are now given more rights to privacy than we do for gamblers, degenerate gambling operations developed under the criminal code in the United States of America. That, my friends, is true. Incidental communications, you don't have to go back to the judge, you continue to listen. But what we have done is we have set a standard that every time they want to go overseas and intercept these folks, the standard of the bar is set so high they have to go get a court order. They have to get a warrant. And it takes months.

This isn't about Hollywood. This isn't about Jack Bauer. This is about

real people having to develop probable cause in accordance with the law of the United States. And what you said is that insurgent in Iraq has more privacy rights than any criminal, any United States citizen under the criminal code of the United States of America. That is what you have done with this bill. Oh, yes, sir, it is. Read the language and understand what it takes for them to go through the process to develop probable cause.

This is the confusion that led to the delay that may have cost the lives of United States soldiers. We all know the example of which we are talking about.

This bill encourages that confusion and that standard to give foreign terrorists in a foreign land more privacy rights than United States citizens under the criminal code here. It's wrong.

We often say, listen to the intelligence community, listen to our commanders on the ground. I implore you to do just that. They oppose this bill because it makes it harder for them to go after foreign terrorists in foreign lands plotting to kill either U.S. soldiers or even attacks against our homeland or our allies. This bill does all of those things.

I don't ever doubt the intention of my friends, but words matter in the legal code. And when you stand before that judge, believe me, there is no agent that believes they are Jack Bauer and are going to fudge a little bit on what the Constitution asks and tells them they must do. They are going to err on the side of the United States Constitution every time. And for those who don't, they deserve to go to jail, and we do prosecute those occasionally. But what you are saying is we are going to create this whole system for foreign terrorists to give them more rights than the privacy of United States citizens. I strongly urge the rejection of this bill. Let's go back to the table and protect our United States citizens.

Mr. ARCURI. I thank my colleague, and as a former prosecutor for 13 years, I have stood before a judge many times and made application for warrants on a number of different occasions. And, frankly, I certainly respect his position; but he is just not correct on this.

This legislation not only gives our country the ability to do what needs to be done to protect us, but more importantly and equally as important certainly it protects our civil rights. So it does both things: It protects our civil rights and gives us the ability to keep our country safe.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, once again, how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Washington controls 6½ minutes; the gentleman from New York controls 14½.

Mr. HASTINGS of Washington. Mr. Speaker, at this time I am pleased to yield 2 minutes to a member of the Judiciary Committee, Mr. GOHMERT of Texas.

Mr. GOHMERT. Mr. Speaker, once again we have heard from across the aisle, this is not true that we are saying you will have to get warrants for foreign-to-foreign, because the bill says in section 2(a), gee, you don't have to get a court order if it is between persons not U.S. citizens not located within the United States.

The problem is, when you look at 2(b) and 3 and section 4, it says: If you can't be sure and you are risking a felony if you are not, if you can't be sure that they may not call somewhere in the United States, you have got to get a court order. That is the bottom line. That is what Admiral McConnell testified.

I realize some people on the other side may think he is suspect because he was the National Security Adviser under the Clinton administration for several years, but I think he is a very credible source.

As a former judge and chief justice, I realize we have got lawyers in here, but I am telling you, when the language says if there may be a call to the United States or to an American, you have got to get a court order, then you are going to have to get them in virtually every time.

But we keep hearing no, no, all that is covered. Once again, we are told something is covered when again it is nothing but a hospital gown coverage. You are exposed in areas you don't want exposed. And that is what the country is looking at.

Now, it also requires the DNI and the AG to jointly petition. Oh, and there is great comfort in this bill. It says the judge, once they finally get the papers filed, will have to rule in 15 days. If we get a soldier kidnapped, we have some sensitive situation, and maybe it is an emergency, maybe it is not, but you can't take a chance of being guilty of a felony, you are going to have to follow through and get a court order. That is what the DNI says and that is what needs to be done.

Now, the main protection here is not for American citizens in general, it is for foreign terrorists. The bottom line is, tell your American friends who are getting calls from foreign terrorists in foreign countries not to call them. Use some other way to communicate, and then your friends are covered.

Mr. ARCURI. It is sad that my colleague attempts to change the actual meaning of what this statute does. It gives no protection to terrorists. It gives protections only to Americans, and it keeps us safe and it gives us the protections that are guaranteed us under the Constitution.

I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield at this time 2½ minutes to a member of the Judiciary Committee, Mr. FRANKS of Arizona.

Mr. FRANKS of Arizona. I thank the gentleman.

Mr. Speaker, the bill here at issue, the so-called RESTORE Act, undermines the existing structure that we put in place to reform FISA only 3 months ago.

In the midst of a war, any changes to the way that our intelligence community operates should be understood as a somber and delicate undertaking that requires great care. Our national security hangs in the balance. We cannot afford to get this wrong, Mr. Speaker.

My amendment aimed to deal with the seriously flawed provision of the RESTORE Act that will do great damage to the civil liberties of the protections of Americans.

□ 1130

My amendment would have stricken section 11 of the bill that directs the Director of National Intelligence and the Attorney General to jointly maintain a recordkeeping system of U.S. persons whose communications are intercepted.

Mr. Speaker, this would amount to a big government database that would have individuals' identity attached in every practical way. There is simply no way to have a database like this that does not attach individual identities to verify the process. The Democrats maintain that the identity is not attached. But this is an impractical rebuttal.

Mr. Speaker, the proposal's not only misguided, it attempts ostensibly to protect Americans' civil liberties and only undermines them further. And we have to understand that these identities would be attached, even if they have no connection to spying or terrorism.

And the bottom line is this, Mr. Speaker, this war on terrorism is ultimately fought in the area of intelligence. If we knew where every terrorist was tonight, in 60 days this war would be over. And if we tie those people's hands who are fighting to protect this country with this RESTORE Act by the majority, I believe that we will some day revisit this issue, Mr. Speaker, because when a terrible tragedy comes on this country, it will transform this debate in the most profound way, and we need to be very, very careful. We need to understand that what we're doing here is of vital importance to future generations.

Mr. ARCURI. Mr. Speaker, I continue to reserve my time.

Mr. HASTINGS of Washington. Mr. Speaker, I know my friend has more time than I have, and I have more requests for time than I have time for. And so, Mr. Speaker, I would ask unanimous consent that each side get an additional 5 minutes so I can accommodate the requests on my side.

Mr. ARCURI. Mr. Speaker, I would object to that.

Mr. HASTINGS of Washington. Mr. Speaker, I wonder then if I could inquire of my friend, since he has more time, if maybe he would yield me at least enough time so I can close on my

side, and I'd ask my friend from New York if he would do that for me.

Mr. ARCURI. Well, we are waiting on one more speaker, so at this time I would not yield any additional time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield for a unanimous consent request to the gentleman from Florida (Mr. MACK).

(Mr. MACK asked and was given permission to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, I rise in opposition to this rule.

Mr. Speaker, I rise today, once again, in defense of liberty and to tell my colleagues they should vote against this Rule.

While I find it honorable that several of my colleagues have attempted to work to find a compromise in this legislation, I have concluded it still does not often enough protections for the rights of our citizens.

It is the duty of Congress to strike the appropriate balance of freedom and liberty with the assurances of security and stability. But, we must constantly ask ourselves, are we going too far in one direction?

And I have always maintained that if a threat is imminent and known, the administration should be given the temporary powers needed to keep our homeland secure and Congress should exercise its inherent power of oversight over that authority.

I advocated this throughout the PATRIOT Act reauthorization and maintain it is the correct stance for us to take in times of crisis.

While I am encouraged by the inclusion of sunsets in this proposal and additional roles for the FISA Court, this legislation still does not bring us back to where we were earlier this summer—the administration needing a clarification on foreign-to-foreign and foreign-to-domestic communications.

Instead of taking the simple tenets of the Constitution and applying it to this debate, we in Congress like to overcomplicate the issue. We all agree these are important issues that deserve our time and attention but we need look no further than the Constitution for the right answers.

Mr. Speaker, the proper route we should have taken in crafting the answer to the FISA problems is H.R. 11—The NSA Oversight Act. This bipartisan bill has the answers, in very clear terms, to what the administration has sought Congress to address.

It allows for emergency surveillance and doesn't overly impede the work of intelligence officers;

It places the FISA Court in a more proper role for reviews of the tactics used and warrants needed;

And it ensures Congress conducts vigorous and smart oversight of these activities, all while protecting the individual freedom of Americans.

And that is the goal we should be aiming for, Mr. Speaker: the protection of our rights and the upholding of our Constitution.

If we fail to adhere to the Constitution and ''sacrifice our liberty,'' then we will have lost this great experiment we began over 220 years ago and the terrorists will have accomplished the very thing they set out to do on that morning in September seven years ago.

We should vote down this Rule, go back to the table and report back a bill that preserves liberty and strikes a more proper balance between freedom and security for Americans.

Mr. HASTINGS of Washington. Mr. Speaker, how much time do I have left, and how much time does the other side have?

The SPEAKER pro tempore. The gentleman from Washington controls 2¼ minutes, and the gentleman from New York controls 14 minutes.

Mr. ARCURI. Mr. Speaker, I'll continue to reserve my time.

Mr. HASTINGS of Washington. Mr. Speaker, I ask the gentleman from New York if he has any more speakers.

Mr. ARCURI. We are waiting on one more speaker.

Mr. HASTINGS of Washington. Mr. Speaker, I'll reserve my time.

Mr. ARCURI. Mr. Speaker, we have heard so much today from the other side about the fear that they have that this provision will somehow put Americans at risk. And I think it's very clear that what this FISA bill does is protect America, give our Intelligence Community ability to do the kind of things that it needs to do, while, at the same time, protecting our civil rights.

I think it was Benjamin Franklin who once said that any country who gives up its liberty for its security deserves neither and will end up losing both. And I think clearly this bill takes that into consideration.

This bill clearly provides for security for our country. It clearly provides our Intelligence Community with the ability to obtain information that it needs and use that and analyze it in a way that keeps America safe to prevent another 9/11 activity.

At the same time, this bill also protects Americans' rights and gives us the ability to prevent wiretapping of Americans here in this country.

We're not talking about foreign-to-foreign. They can do that. They have done that in the past, and they will continue to do that. This clearly deals with protecting Americans.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, there are a number of issues that have been brought up by the other side regarding this bill. First of all, it's important to keep in mind that what we're trying to do with this legislation is to carefully balance providing the tools to the intelligence professionals that are charged with keeping us safe in this country, and this legislation does that, regardless of what comments the other side has made.

Second, and most important, we have to balance it with protecting the civil rights of our citizens. As we talk about protecting this country, we have to keep in mind that this country was founded on the principle of the rule of law. The rule of law protects its citizens.

Under the Protect America Act, as we have seen over the course of the last few weeks, many, many concerns have been raised about the authorities that have been given to the government, authorities that would render our citizens not being able to protect and be secure in our homes and in our possessions.

The Protect America Act has given so many authorities that people are not safe and secure in their own homes. The government can go in there and search their computers, search their residences, and search literally every possession that Americans have. This legislation corrects those deficiencies. This legislation is a careful balance in keeping our country safe, as well as securing the rights of Americans in their homes.

Mr. HASTINGS of Washington. I would inquire of my friend from New York if they have any additional speakers.

Mr. ARCURI. I have one more speaker.

Mr. HASTINGS of Washington. How much time do I have on my side?

The SPEAKER pro tempore. The gentleman continues to have 2¼ minutes.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of the time.

Today, Mr. Speaker, I will be asking my colleagues to vote ''no'' on the previous question so that I can amend the rule to allow for a substitute amendment to be offered by Mr. HOEKSTRA of Michigan or Mr. SMITH of Texas. This will give the House an opportunity to consider additional views that were denied with this closed rule in the Rules Committee last night.

And, Mr. Speaker, September 28, 2006, we had a debate on this issue last year, and I'd like to quote a Member and what he said on the House floor. And I quote: ''You beat with rulemaking that which you know you cannot beat with reason.''

And he goes on to say, ''I know what you say: Do as you say, not as we do. For today, in the people's House democracy has been eviscerated by those who recommend it to others. I have said it before. The way the majority runs the House is shameful. It is undemocratic. It happens every single day that we have a closed rule.''

The speaker was my good friend from Florida (Mr. HASTINGS).

Mr. Speaker, I ask unanimous consent to have the text of the amendment and extraneous material inserted into the RECORD prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, I urge my colleagues to oppose the previous question and the closed rule.

I yield back the balance of my time.

Mr. ARCURI. Mr. Speaker, I yield 1 minute to the distinguished Speaker of the House, the gentlewoman from California, NANCY PELOSI.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding and commend him for his excellent management of this rule affording us the opportunity to bring this important legislation to the floor.

I commend Chairman REYES and Chairman CONYERS for their leadership

in protecting and defending the American people by putting forth the best way to collect intelligence under the law.

Mr. Speaker, as we say over and over again here, and each one of us who comes to serve in this body, indeed, everyone who serves our country takes an oath of office to protect and defend the Constitution of the United States. It's a thrill to take that oath of office.

As we protect and defend the American people in the preamble, it says to form a more perfect Union, Mr. JACKSON has been a champion on that, to provide for the common defense. In that preamble, that's a high priority for us. We have a responsibility to protect the American people; that makes everything else possible in our community and in our society.

But as we protect and defend the American people, our oath of office calls upon us to protect and defend the Constitution and our civil liberties. The legislation before us today does just that. It's about protecting the American people from terrorism and other national security threats.

I, for a long time, have served on the Intelligence Committee, both as a member, as the ranking member, and also ex officio as leader and now as Speaker. I believe very firmly in the role that intelligence gathering plays in protecting the American people. We want to prevent war. We want to prevent harm to our forces. Force protection is a very, very high priority for us. Protection of our forces. And we must now meet this horrible challenge of fighting terrorism in the world. It has been a challenge for some time. In order to do that, we have to have the laws in place in order to collect that intelligence under the law, and that is what this legislation does. First, it helps us defend our country against terrorism and other threats. Secondly, it protects the privacy of the American people, which is important to them and a responsibility for us. And third, this legislation restores a system of checks and balances and how we protect and defend our country and provides for rigorous oversight by Congress of this collection.

In the 1970s, when the FISA law was passed, it was conceded that Congress had a role in determining how intelligence was conducted, how the executive branch conducted the collection of intelligence, the executive branch, Congress, making laws to govern that, two Houses, two branches of government. And in the FISA bill that was passed at that time, the role of the third branch of government was defined, the FISA Courts. That system of checks and balances has served our country well. With the advance of technology, additional challenges arose, and this legislation meets those challenges. Any suggestions to the contrary are simply not factual. What the Director of National Intelligence has asked for in terms of collection he has received in this legislation, and he has received it under the law.

The legislation restores checks and balances in other ways. It rejects groundless claims of inherent executive authority. Under that, we might as well just crown the President king and just say he has access to any information in our country, and he may collect that outside the law.

And this legislation reiterates that the law enacted by Congress, FISA, Foreign Intelligence Surveillance Act, is the exclusive means for conducting electronic surveillance to gather foreign intelligence. The principle of exclusivity is a very, very important principle, and it is enshrined in this legislation.

□ 1145

The bill also sunsets by December 31, 2009, at the same time the PATRIOT Act sunsets, so the next administration and another Congress can review whether the new program appropriately meets national security and civil liberty objectives.

This bill does not provide immunity to telecommunications companies that participated in the President's warrantless surveillance program. As I have said many times, you can't even consider such relief unless we know what people are asking for immunity from. Congress is not a rubber stamp; we are a coequal branch of government. We have a right to know what conduct the administration wants us to immunize against.

Working side by side, the Intelligence Committee and the Judiciary Committee have produced an excellent bill. It has been heralded so by those organizations whose organized purpose is to protect our civil liberties in light of our responsibility to our national security. It has been heralded by those who follow and hold as a value the privacy of the American people. It has been heralded by those who understand that one of our first responsibilities is to provide for the common defense. Our Founders understood it well, the balance that needed to be struck between security and liberty. They spoke eloquently to it in their speeches. They enshrined it in the Constitution. Let us protect the American people under the law.

Please, my colleagues, support this very important legislation.

Mr. ARCURI. Mr. Speaker, I would just like to thank the gentlewoman from California for her very strong leadership on this issue and, over the years, for her many years of strong leadership in this area. I would also like to thank Chairmen CONYERS and REYES for their strong leadership in bringing this bill to the floor.

Having said that, I urge a ''yes'' vote on the previous question and on the rule.

The material previously referred to by Mr. HASTINGS of Washington is as follows:

AMENDMENT TO H. RES. 746 OFFERED BY REPRESENTATIVE HASTINGS, WA

In section 1, strike ''and (2)'', and insert ''(2) a further amendment to be offered by Representative HOEKSTRA or Representative SMITH of Texas, or their designee, which shall be in order without intervention of any point of order or demand for division of the question and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3)''.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311), describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools

for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. ARCURI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of H. Res. 746, if ordered; and suspending the rules on H. Res. 549.

The vote was taken by electronic device, and there were—yeas 221, nays 199, not voting 11, as follows:

[Roll No. 974]

YEAS—221

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Wynn
Yarmuth

NAYS—199

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—11

Carson
Castor
Holt
Jindal
Johnson, E. B.
McKeon
Meek (FL)
Moore (WI)
Tancredo
Wilson (OH)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 90 seconds left on the vote.

□ 1211

Mr. ISSA, Mrs. CAPITO and Mr. MCCAUL of Texas changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 12, as follows:

[Roll No. 975]

YEAS—223

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns

Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Wynn
Yarmuth

NAYS—196

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—12

Carson
Castor
Delahunt
Holt
Jindal
Johnson, E. B.
Kirk
Marchant
McKeon
Tancredo
Wilson (OH)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1218

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mrs. MUSGRAVE. Mr. Speaker, on rollcall No. 975, I inadvertently voted "yea" and intended to vote "nay."

RECOGNIZING THE IMPORTANCE OF AMERICA'S WATERWAY WATCH PROGRAM

The SPEAKER pro tempore (Mr. PASTOR). The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 549, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. CUMMINGS) that the House suspend the rules and agree to the resolution, H. Res. 549.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 11, as follows:

[Roll No. 976]

YEAS—420

Abercrombie
Ackerman
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carter
Castle
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NOT VOTING—11

Aderholt
Carson
Castor
Jindal
Johnson, E. B.
Marchant
McKeon
Tancredo
Udall (CO)
Wilson (OH)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1228

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. UDALL of Colorado. Mr. Speaker, as a member of the Air Force Academy's Board of Visitors, I have been participating in a meeting of that board here in Washington, DC.

Earlier today, I left the floor to return to that meeting and as a result was not present to vote on rollcall No. 976, on the motion to suspend the rules and pass H. Res. 549, recognizing the importance of America's Waterway Watch program.

Had I been present for that vote, I would have voted ''yea.''

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate had agreed to a resolution of the House of the following title.

H. Con. Res. 193. Concurrent resolution recognizing all hunters across the United States for their continued commitment to safety.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. RES. 106.

Mr. LARSEN of Washington. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H. Res. 106.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

RESTORE ACT OF 2007

Mr. CONYERS. Mr. Speaker, pursuant to House Resolution 746, I call up the bill (H.R. 3773) to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Responsible Electronic Surveillance That is Overseen, Reviewed, and Effective Act of 2007'' or ''RESTORE Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES.

Section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. (a) FOREIGN TO FOREIGN COMMUNICATIONS.—Notwithstanding any other provision of this Act, a court order is not required for the acquisition of the contents of any communication between persons that are not United States persons and are not located within the United States for the purpose of collecting foreign intelligence information, without respect to whether the communication passes through the United States or the surveillance device is located within the United States.

''(b) COMMUNICATIONS OF NON-UNITED STATES PERSONS OUTSIDE OF THE UNITED STATES.—Notwithstanding any other provision of this Act other than subsection (a), electronic surveillance that is directed at the acquisition of the communications of a person that is reasonably believed to be located outside the United States and not a United States person for the purpose of collecting foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)) by targeting that person shall be conducted pursuant to—

''(1) an order approved in accordance with section 105 or 105B; or

''(2) an emergency authorization in accordance with section 105 or 105C.''.

SEC. 3. PROCEDURE FOR AUTHORIZING ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.

Section 105B of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''PROCEDURE FOR AUTHORIZING ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105B. (a) IN GENERAL.—Notwithstanding any other provision of this Act, the Director of National Intelligence and the Attorney General may jointly apply to a judge of the court established under section 103(a) for an ex parte order, or the extension of an order, authorizing for a period of up to one year the acquisition of communications of persons that are reasonably believed to be located outside the United States and not United States persons for the purpose of collecting foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)) by targeting those persons.

''(b) APPLICATION INCLUSIONS.—An application under subsection (a) shall include—

''(1) a certification by the Director of National Intelligence and the Attorney General that—

''(A) the targets of the acquisition of foreign intelligence information under this section are persons reasonably believed to be located outside the United States;

''(B) the targets of the acquisition are reasonably believed to be persons that are not United States persons;

''(C) the acquisition involves obtaining the foreign intelligence information from, or with the assistance of, a communications service provider or custodian, or an officer, employee, or agent of such service provider or custodian, who has authorized access to the communications to be acquired, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications; and

''(D) a significant purpose of the acquisition is to obtain foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)); and

''(2) a description of—

''(A) the procedures that will be used by the Director of National Intelligence and the Attorney General during the duration of the order to determine that there is a reasonable belief that the targets of the acquisition are persons that are located outside the United States and not United States persons;

''(B) the nature of the information sought, including the identity of any foreign power against whom the acquisition will be directed;

''(C) minimization procedures that meet the definition of minimization procedures under section 101(h) to be used with respect to such acquisition; and

''(D) the guidelines that will be used to ensure that an application is filed under section 104, if otherwise required by this Act, when the Federal Government seeks to conduct electronic surveillance of a person reasonably believed to be located in the United States.

''(c) SPECIFIC PLACE NOT REQUIRED.—An application under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(d) REVIEW OF APPLICATION.—Not later than 15 days after a judge receives an application under subsection (a), the judge shall review such application and shall approve the application if the judge finds that—

''(1) the proposed procedures referred to in subsection (b)(2)(A) are reasonably designed to determine whether the targets of the acquisition are located outside the United States and not United States persons;

''(2) the proposed minimization procedures referred to in subsection (b)(2)(C) meet the definition of minimization procedures under section 101(h); and

''(3) the guidelines referred to in subsection (b)(2)(D) are reasonably designed to ensure that an application is filed under section 104, if otherwise required by this Act, when the Federal Government seeks to conduct electronic surveillance of a person reasonably believed to be located in the United States.

''(e) ORDER.—

''(1) IN GENERAL.—A judge approving an application under subsection (d) shall issue an order—

''(A) authorizing the acquisition of the contents of the communications as requested, or as modified by the judge;

''(B) requiring the communications service provider or custodian, or officer, employee, or agent of such service provider or custodian, who has authorized access to the information, facilities, or technical assistance necessary to accomplish the acquisition to provide such information, facilities, or technical assistance necessary to accomplish the

acquisition and to produce a minimum of interference with the services that provider, custodian, officer, employee, or agent is providing the target of the acquisition;

''(C) requiring such communications service provider, custodian, officer, employee, or agent, upon the request of the applicant, to maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished;

''(D) directing the Federal Government to—

''(i) compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to such order; and

''(ii) provide a copy of the portion of the order directing the person to comply with the order to such person; and

''(E) directing the applicant to follow—

''(i) the procedures referred to in subsection (b)(2)(A) as proposed or as modified by the judge;

''(ii) the minimization procedures referred to in subsection (b)(2)(C) as proposed or as modified by the judge; and

''(iii) the guidelines referred to in subsection (b)(2)(D) as proposed or as modified by the judge.

''(2) FAILURE TO COMPLY.—If a person fails to comply with an order issued under paragraph (1), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the order. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(3) LIABILITY OF ORDER.—Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with an order issued under this subsection.

''(4) RETENTION OF ORDER.—The Director of National Intelligence and the court established under subsection 103(a) shall retain an order issued under this section for a period of not less than 10 years from the date on which such order is issued.

''(5) ASSESSMENT OF COMPLIANCE WITH MINIMIZATION PROCEDURES.—At or before the end of the period of time for which an acquisition is approved by an order or an extension under this section, the judge may assess compliance with the minimization procedures referred to in paragraph (1)(E)(ii) and the guidelines referred to in paragraph (1)(E)(iii) by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.''.

SEC. 4. EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES.

Section 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105C. (a) APPLICATION AFTER EMERGENCY AUTHORIZATION.—As soon as is practicable, but not more than 7 days after the Director of National Intelligence and the Attorney General authorize an acquisition under this section, an application for an order authorizing the acquisition in accordance with section 105B shall be submitted to the judge referred to in subsection (b)(2) of this section for approval of the acquisition in accordance with section 105B.

''(b) EMERGENCY AUTHORIZATION.—Notwithstanding any other provision of this Act, the Director of National Intelligence and the Attorney General may jointly authorize the emergency acquisition of foreign intelligence information for a period of not more than 45 days if—

''(1) the Director of National Intelligence and the Attorney General jointly determine that—

''(A) an emergency situation exists with respect to an authorization for an acquisition under section 105B before an order approving the acquisition under such section can with due diligence be obtained;

''(B) the targets of the acquisition of foreign intelligence information under this section are persons reasonably believed to be located outside the United States;

''(C) the targets of the acquisition are reasonably believed to be persons that are not United States persons;

''(D) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section will be acquired by targeting only persons that are reasonably believed to be located outside the United States and not United States persons;

''(E) the acquisition involves obtaining the foreign intelligence information from, or with the assistance of, a communications service provider or custodian, or an officer, employee, or agent of such service provider or custodian, who has authorized access to the communications to be acquired, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(F) a significant purpose of the acquisition is to obtain foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e));

''(G) minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h); and

''(H) there are guidelines that will be used to ensure that an application is filed under section 104, if otherwise required by this Act, when the Federal Government seeks to conduct electronic surveillance of a person reasonably believed to be located in the United States; and

''(2) the Director of National Intelligence and the Attorney General, or their designees, inform a judge having jurisdiction to approve an acquisition under section 105B at the time of the authorization under this section that the decision has been made to acquire foreign intelligence information.

''(c) INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE.—Pursuant to an authorization of an acquisition under this section, the Attorney General may direct a communications service provider, custodian, or an officer, employee, or agent of such service provider or custodian, who has the lawful authority to access the information, facilities, or technical assistance necessary to accomplish such acquisition to—

''(1) furnish the Attorney General forthwith with such information, facilities, or technical assistance in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that provider, custodian, officer, employee, or agent is providing the target of the acquisition; and

''(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished.''.

SEC. 5. OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE OF THE UNITED STATES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105C the following new section:

''OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE OF THE UNITED STATES

''SEC. 105D. (a) APPLICATION; PROCEDURES; ORDERS.—Not later than 7 days after an application is submitted under section 105B(a) or an order is issued under section 105B(e), the Director of National Intelligence and the Attorney General shall submit to the appropriate committees of Congress—

''(1) in the case of an application, a copy of the application, including the certification made under section 105B(b)(1); and

''(2) in the case of an order, a copy of the order, including the procedures and guidelines referred to in section 105B(e)(1)(E).

''(b) QUARTERLY AUDITS.—

''(1) AUDIT.—Not later than 120 days after the date of the enactment of this section, and every 120 days thereafter until the expiration of all orders issued under section 105B, the Inspector General of the Department of Justice shall complete an audit on the implementation of and compliance with the procedures and guidelines referred to in section 105B(e)(1)(E) and shall submit to the appropriate committees of Congress, the Attorney General, the Director of National Intelligence, and the court established under section 103(a) the results of such audit, including, for each order authorizing the acquisition of foreign intelligence under section 105B—

''(A) the number of targets of an acquisition under such order that were later determined to be located in the United States;

''(B) the number of persons located in the United States whose communications have been acquired under such order;

''(C) the number and nature of reports disseminated containing information on a United States person that was collected under such order; and

''(D) the number of applications submitted for approval of electronic surveillance under section 104 for targets whose communications were acquired under such order.

''(2) REPORT.—Not later than 30 days after the completion of an audit under paragraph (1), the Attorney General shall submit to the appropriate committees of Congress and the court established under section 103(a) a report containing the results of such audit.

''(c) COMPLIANCE REPORTS.—Not later than 60 days after the date of the enactment of this section, and every 120 days thereafter until the expiration of all orders issued under section 105B, the Director of National Intelligence and the Attorney General shall submit to the appropriate committees of Congress and the court established under section 103(a) a report concerning acquisitions under section 105B during the previous 120-day period. Each report submitted under this section shall include a description of any incidents of non-compliance with an order issued under section 105B(e), including incidents of non-compliance by—

''(1) an element of the intelligence community with minimization procedures referred to in section 105B(e)(1)(E)(i);

''(2) an element of the intelligence community with procedures referred to in section 105B(e)(1)(E)(ii);

''(3) an element of the intelligence community with guidelines referred to in section 105B(e)(1)(E)(iii); and

''(4) a person directed to provide information, facilities, or technical assistance under such order.

''(d) REPORT ON EMERGENCY AUTHORITY.—The Director of National Intelligence and the Attorney General shall annually submit to the appropriate committees of Congress a report containing the number of emergency authorizations of acquisitions under section 105C and a description of any incidents of non-compliance with an emergency authorization under such section.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Permanent Select Committee on Intelligence of the House of Representatives;

''(2) the Select Committee on Intelligence of the Senate; and

''(3) the Committees on the Judiciary of the House of Representatives and the Senate.''.

SEC. 6. FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.

Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(g) In any case where the court established under subsection (a) or a judge of such court is required to review a matter under this Act, the court may, at the discretion of the court, sit en banc to review such matter and issue any orders related to such matter.''.

SEC. 7. AUDIT OF WARRANTLESS SURVEILLANCE PROGRAMS.

(a) AUDIT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall complete an audit of all programs of the Federal Government involving the acquisition of communications conducted without a court order on or after September 11, 2001, including the Terrorist Surveillance Program referred to by the President in a radio address on December 17, 2005. Such audit shall include acquiring all documents relevant to such programs, including memoranda concerning the legal authority of a program, authorizations of a program, certifications to telecommunications carriers, and court orders.

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the completion of the audit under subsection (a), the Inspector General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report containing the results of such audit, including all documents acquired pursuant to conducting such audit.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by the Inspector General or the appropriate staff of the Office of the Inspector General of the Department of Justice for a security clearance necessary for the conduct of the audit under subsection (a) is conducted as expeditiously as possible.

SEC. 8. RECORD-KEEPING SYSTEM ON ACQUISITION OF COMMUNICATIONS OF UNITED STATES PERSONS.

(a) RECORD-KEEPING SYSTEM.—The Director of National Intelligence and the Attorney General shall jointly develop and maintain a record-keeping system that will keep track of—

(1) the instances where the identity of a United States person whose communications were acquired was disclosed by an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) that collected the communications to other departments or agencies of the United States; and

(2) the departments and agencies of the Federal Government and persons to whom such identity information was disclosed.

(b) REPORT.—The Director of National Intelligence and the Attorney General shall annually submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report on the record-keeping system created under subsection (a), including the number of instances referred to in paragraph (1).

SEC. 9. AUTHORIZATION FOR INCREASED RESOURCES RELATING TO FOREIGN INTELLIGENCE SURVEILLANCE.

There are authorized to be appropriated the Department of Justice, for the activities of the Office of the Inspector General, the Office of Intelligence Policy and Review, and other appropriate elements of the National Security Division, and the National Security Agency such sums as may be necessary to meet the personnel and information technology demands to ensure the timely and efficient processing of—

(1) applications and other submissions to the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a));

(2) the audit and reporting requirements under—

(A) section 105D of such Act; and

(B) section 7; and

(3) the record-keeping system and reporting requirements under section 8.

SEC. 10. REITERATION OF FISA AS THE EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE MAY BE CONDUCTED FOR GATHERING FOREIGN INTELLIGENCE INFORMATION.

(a) EXCLUSIVE MEANS.—Notwithstanding any other provision of law, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which electronic surveillance may be conducted for the purpose of gathering foreign intelligence information.

(b) SPECIFIC AUTHORIZATION REQUIRED FOR EXCEPTION.—Subsection (a) shall apply until specific statutory authorization for electronic surveillance, other than as an amendment to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), is enacted. Such specific statutory authorization shall be the only exception to subsection (a).

SEC. 11. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C and inserting the following new items:

''Sec. 105A. Clarification of electronic surveillance of non-United States persons outside the United States.

''Sec. 105B. Procedure for authorizing acquisitions of communications of non-United States persons located outside the United States.

''Sec. 105C. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States.

''Sec. 105D. Oversight of acquisitions of communications of persons located outside of the United States.''.

(b) SECTION 103(e) OF FISA.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or''; and

(2) in paragraph (2), by striking ''105B(h) or''.

(c) REPEAL OF CERTAIN PROVISIONS OF THE PROTECT AMERICA ACT.—Sections 4 and 6 of the Protect America Act (Public Law 110–55) are hereby repealed.

SEC. 12. SUNSET; TRANSITION PROCEDURES.

(a) SUNSET OF NEW PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on December 31, 2009—

(A) sections 105A, 105B, 105C, and 105D of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) are hereby repealed; and

(B) the table of contents in the first section of such Act is amended by striking the items relating to sections 105A, 105B, 105C, and 105D.

(2) ACQUISITIONS AUTHORIZED PRIOR TO SUNSET.—Any authorization or order issued under section 105B of the Foreign Intelligence Surveillance Act of 1978, as amended by this Act, in effect on December 31, 2009, shall continue in effect until the date of the expiration of such authorization or order.

(b) ACQUISITIONS AUTHORIZED PRIOR TO ENACTMENT.—

(1) EFFECT.—Notwithstanding the amendments made by this Act, an authorization of the acquisition of foreign intelligence information under section 105B of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) made before the date of the enactment of this Act shall remain in effect until the date of the expiration of such authorization or the date that is 180 days after such date of enactment, whichever is earlier.

(2) REPORT.—Not later than 30 days after the date of the expiration of all authorizations of acquisition of foreign intelligence information under section 105B of the Foreign Intelligence Surveillance Act of 1978 (as added by Public Law 110–55) made before the date of the enactment of this Act in accordance with paragraph (1), the Director of National Intelligence and the Attorney General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report on such authorizations, including—

(A) the number of targets of an acquisition under section 105B of such Act (as in effect on the day before the date of the enactment of this Act) that were later determined to be located in the United States;

(B) the number of persons located in the United States whose communications have been acquired under such section;

(C) the number of reports disseminated containing information on a United States person that was collected under such section;

(D) the number of applications submitted for approval of electronic surveillance under section 104 of such Act based upon information collected pursuant to an acquisition authorized under section 105B of such Act (as in effect on the day before the date of the enactment of this Act); and

(E) a description of any incidents of non-compliance with an authorization under such section, including incidents of non-compliance by—

(i) an element of the intelligence community with procedures referred to in subsection (a)(1) of such section;

(ii) an element of the intelligence community with minimization procedures referred to in subsection (a)(5) of such section; and

(iii) a person directed to provide information, facilities, or technical assistance under subsection (e) of such section.

(3) INTELLIGENCE COMMUNITY DEFINED.—In this subsection, the term ''intelligence community'' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

The SPEAKER pro tempore. Pursuant to House Resolution 746, in lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 110–385, modified by the amendment printed in part B of the report, is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Responsible Electronic Surveillance That is Overseen, Reviewed, and Effective Act of 2007'' or ''RESTORE Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES.

Section 105A of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. (a) FOREIGN TO FOREIGN COMMUNICATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, a court order is not required for electronic surveillance directed at the acquisition of the contents of any communication between persons that are not known to be United States persons and are reasonably believed to be located outside the United States for the purpose of collecting foreign intelligence information, without respect to whether the communication passes through the United States or the surveillance device is located within the United States.

''(2) TREATMENT OF INADVERTENT INTERCEPTIONS.—If electronic surveillance referred to in paragraph (1) inadvertently collects a communication in which at least one party to the communication is located inside the United States or is a United States person, the contents of such communication shall be handled in accordance with minimization procedures adopted by the Attorney General that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than 7 days unless a court order under section 105 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

''(b) COMMUNICATIONS OF NON-UNITED STATES PERSONS OUTSIDE OF THE UNITED STATES.—Notwithstanding any other provision of this Act other than subsection (a), electronic surveillance that is directed at the acquisition of the communications of a person that is reasonably believed to be located outside the United States and not a United States person for the purpose of collecting foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)) by targeting that person shall be conducted pursuant to—

''(1) an order approved in accordance with section 105 or 105B; or

''(2) an emergency authorization in accordance with section 105 or 105C.''.

SEC. 3. ADDITIONAL AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES.

Section 105B of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''ADDITIONAL AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES

''SEC. 105B. (a) IN GENERAL.—Notwithstanding any other provision of this Act, the Director of National Intelligence and the Attorney General may jointly apply to a judge of the court established under section 103(a) for an ex parte order, or the extension of an order, authorizing for a period of up to one year the acquisition of communications of persons that are reasonably believed to be located outside the United States and not United States persons for the purpose of collecting foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)) by targeting those persons.

''(b) APPLICATION INCLUSIONS.—An application under subsection (a) shall include—

''(1) a certification by the Director of National Intelligence and the Attorney General that—

''(A) the targets of the acquisition of foreign intelligence information under this section are persons reasonably believed to be located outside the United States who may be communicating with persons inside the United States;

''(B) the targets of the acquisition are reasonably believed to be persons that are not United States persons;

''(C) the acquisition involves obtaining the foreign intelligence information from, or with the assistance of, a communications service provider or custodian, or an officer, employee, or agent of such service provider or custodian, who has authorized access to the communications to be acquired, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications; and

''(D) a significant purpose of the acquisition is to obtain foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)); and

''(2) a description of—

''(A) the procedures that will be used by the Director of National Intelligence and the Attorney General during the duration of the order to determine that there is a reasonable belief that the persons that are the targets of the acquisition are located outside the United States and not United States persons;

''(B) the nature of the information sought, including the identity of any foreign power against whom the acquisition will be directed;

''(C) minimization procedures that meet the definition of minimization procedures under section 101(h) to be used with respect to such acquisition; and

''(D) the guidelines that will be used to ensure that an application is filed under section 104, if otherwise required by this Act, when a significant purpose of an acquisition is to acquire the communications of a specific United States person reasonably believed to be located in the United States.

''(c) SPECIFIC PLACE NOT REQUIRED.—An application under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(d) REVIEW OF ''APPLICATION; APPEALS.—

''(1) REVIEW OF APPLICATION.—Not later than 15 days after a judge receives an application under subsection (a), the judge shall review such application and shall approve the application if the judge finds that—

''(A) the proposed procedures referred to in subsection (b)(2)(A) are reasonably designed to determine whether the targets of the acquisition are located outside the United States and not United States persons;

''(B) the proposed minimization procedures referred to in subsection (b)(2)(C) meet the definition of minimization procedures under section 101(h); and

''(C) the guidelines referred to in subsection (b)(2)(D) are reasonably designed to ensure that an application is filed under section 104, if otherwise required by this Act, when a significant purpose of an acquisition

is to acquire the communications of a specific United States person reasonably believed to be located in the United States.

''(2) TEMPORARY ORDER; APPEALS.—

''(A) TEMPORARY ORDER.—A judge denying an application under paragraph (1) may, at the application of the United States, issue a temporary order to authorize an acquisition under section 105B in accordance with the application submitted under subsection (a) during the pendency of any appeal of the denial of such application.

''(B) APPEALS.—The United States may appeal the denial of an application for an order under paragraph (1) or a temporary order under subparagraph (A) in accordance with section 103.

''(e) ORDER.—

''(1) IN GENERAL.—A judge approving an application under subsection (d) shall issue an order—

''(A) authorizing the acquisition of the contents of the communications as requested, or as modified by the judge;

''(B) requiring the communications service provider or custodian, or officer, employee, or agent of such service provider or custodian, who has authorized access to the information, facilities, or technical assistance necessary to accomplish the acquisition to provide such information, facilities, or technical assistance necessary to accomplish the acquisition and to produce a minimum of interference with the services that provider, custodian, officer, employee, or agent is providing the target of the acquisition;

''(C) requiring such communications service provider, custodian, officer, employee, or agent, upon the request of the applicant, to maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished;

''(D) directing the Federal Government to—

''(i) compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to such order;

''(ii) provide a copy of the portion of the order directing the person to comply with the order to such person; and

''(iii) a certification stating that the acquisition is authorized under this section and that all requirements of this section have been met; and''.

''(E) directing the applicant to follow—

''(i) the procedures referred to in subsection (b)(2)(A) as proposed or as modified by the judge;

''(ii) the minimization procedures referred to in subsection (b)(2)(C) as proposed or as modified by the judge; and

''(iii) the guidelines referred to in subsection (b)(2)(D) as proposed or as modified by the judge.

''(2) FAILURE TO COMPLY.—If a person fails to comply with an order issued under paragraph (1), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the order. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(3) LIABILITY OF ORDER.—Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with an order issued under this subsection.

''(4) RETENTION OF ORDER.—The Director of National Intelligence and the court established under subsection 103(a) shall retain an order issued under this section for a period of not less than 10 years from the date on which such order is issued.

''(5) ASSESSMENT OF COMPLIANCE WITH COURT ORDER.—At or before the end of the period of time for which an acquisition is approved by an order or an extension under this section, the court established under section 103(a) shall, not less frequently than once each quarter, assess compliance with the procedures and guidelines referred to in paragraph (1)(E) and review the circumstances under which information concerning United States persons was acquired, retained, or disseminated.''.

SEC. 4. EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES.

Section 105C of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended to read as follows:

''EMERGENCY AUTHORIZATION OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES

''SEC. 105C. (a) APPLICATION AFTER EMERGENCY AUTHORIZATION.—As soon as is practicable, but not more than 7 days after the Director of National Intelligence and the Attorney General authorize an acquisition under this section, an application for an order authorizing the acquisition in accordance with section 105B shall be submitted to the judge referred to in subsection (b)(2) of this section for approval of the acquisition in accordance with section 105B.

''(b) EMERGENCY AUTHORIZATION.—Notwithstanding any other provision of this Act, the Director of National Intelligence and the Attorney General may jointly authorize the emergency acquisition of foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e)) for a period of not more than 45 days if—

''(1) the Director of National Intelligence and the Attorney General jointly determine that—

''(A) an emergency situation exists with respect to an authorization for an acquisition under section 105B before an order approving the acquisition under such section can with due diligence be obtained;

''(B) the targets of the acquisition of foreign intelligence information under this section are persons reasonably believed to be located outside the United States who may be communicating with persons inside the United States;

''(C) the targets of the acquisition are reasonably believed to be persons that are not United States persons;

''(D) there are procedures in place that will be used by the Director of National Intelligence and the Attorney General during the duration of the authorization to determine if there is a reasonable belief that the persons that are the targets of the acquisition are located outside the United States and not United States persons;

''(E) the acquisition involves obtaining the foreign intelligence information from, or with the assistance of, a communications service provider or custodian, or an officer, employee, or agent of such service provider or custodian, who has authorized access to the communications to be acquired, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(F) a significant purpose of the acquisition is to obtain foreign intelligence information (as defined in paragraph (1) or (2)(A) of section 101(e));

''(G) minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h); and

''(H) there are guidelines that will be used to ensure that an application is filed under section 104, if otherwise required by this Act, when a significant purpose of an acquisition is to acquire the communications of a specific United States person reasonably believed to be located in the United States; and

''(2) the Director of National Intelligence and the Attorney General, or their designees, inform a judge having jurisdiction to approve an acquisition under section 105B at the time of the authorization under this section that the decision has been made to acquire foreign intelligence information.

''(c) INFORMATION, FACILITIES, AND TECHNICAL ASSISTANCE.—

''(1) DIRECTIVE.—Pursuant to an authorization of an acquisition under this section, the Attorney General may direct a communications service provider, custodian, or an officer, employee, or agent of such service provider or custodian, who has the lawful authority to access the information, facilities, or technical assistance necessary to accomplish such acquisition to—

''(A) furnish the Attorney General forthwith with such information, facilities, or technical assistance in a manner that will protect the secrecy of the acquisition and produce a minimum of interference with the services that provider, custodian, officer, employee, or agent is providing the target of the acquisition; and

''(B) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished.

''(2) PARAMETERS; CERTIFICATIONS.—The Attorney General shall provide to any person directed to provide assistance under paragraph (1) with—

''(A) a document setting forth the parameters of the directive;

''(B) a certification stating that—

''(i) the emergency authorization has been issued pursuant to this section;

''(ii) all requirements of this section have been met;

''(iii) a judge has been informed of the emergency authorization in accordance with subsection (b)(2); and

''(iv) an application will be submitted in accordance with subsection (a); and

''(C) a certification that the recipient of the directive shall be compensated, at the prevailing rate, for providing information, facilities, or assistance pursuant to such directive.''.

SEC. 5. OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE OF THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105C the following new section:

''OVERSIGHT OF ACQUISITIONS OF COMMUNICATIONS OF NON-UNITED STATES PERSONS LOCATED OUTSIDE OF THE UNITED STATES WHO MAY BE COMMUNICATING WITH PERSONS INSIDE THE UNITED STATES

''SEC. 105D. (a) APPLICATION; PROCEDURES; ORDERS.—Not later than 7 days after an application is submitted under section 105B(a) or an order is issued under section 105B(e), the Director of National Intelligence and the Attorney General shall submit to the appropriate committees of Congress—

''(1) in the case of an application—

''(A) a copy of the application, including the certification made under section 105B(b)(1); and

''(B) a description of the primary purpose of the acquisition for which the application is submitted; and

''(2) in the case of an order, a copy of the order, including the procedures and guidelines referred to in section 105B(e)(1)(E).

''(b) REGULAR AUDITS.—

''(1) AUDIT.—Not later than 120 days after the date of the enactment of this section, and every 120 days thereafter until the expiration of all orders issued under section 105B, the Inspector General of the Department of Justice shall complete an audit on the implementation of and compliance with the procedures and guidelines referred to in section 105B(e)(1)(E) and shall submit to the appropriate committees of Congress, the Attorney General, the Director of National Intelligence, and the court established under section 103(a) the results of such audit, including, for each order authorizing the acquisition of foreign intelligence under section 105B—

''(A) the number of targets of an acquisition under such order that were later determined to be located in the United States;

''(B) the number of persons located in the United States whose communications have been acquired under such order;

''(C) the number and nature of reports disseminated containing information on a United States person that was collected under such order; and

''(D) the number of applications submitted for approval of electronic surveillance under section 104 for targets whose communications were acquired under such order.

''(2) REPORT.—Not later than 30 days after the completion of an audit under paragraph (1), the Attorney General shall submit to the appropriate committees of Congress and the court established under section 103(a) a report containing the results of such audit.

''(c) COMPLIANCE REPORTS.—Not later than 60 days after the date of the enactment of this section, and every 120 days thereafter until the expiration of all orders issued under section 105B, the Director of National Intelligence and the Attorney General shall submit to the appropriate committees of Congress and the court established under section 103(a) a report concerning acquisitions under section 105B during the previous period. Each report submitted under this section shall include a description of any incidents of non-compliance with an order issued under section 105B(e), including incidents of non-compliance by—

''(1) an element of the intelligence community with procedures referred to in section 105B(e)(1)(E)(i);

''(2) an element of the intelligence community with minimization procedures referred to in section 105B(e)(1)(E)(ii);

''(3) an element of the intelligence community with guidelines referred to in section 105B(e)(1)(E)(iii); and

''(4) a person directed to provide information, facilities, or technical assistance under such order.

''(d) REPORT ON EMERGENCY AUTHORITY.—The Director of National Intelligence and the Attorney General shall annually submit to the appropriate committees of Congress a report containing the number of emergency authorizations of acquisitions under section 105C and a description of any incidents of non-compliance with an emergency authorization under such section.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Permanent Select Committee on Intelligence of the House of Representatives;

''(2) the Select Committee on Intelligence of the Senate; and

''(3) the Committees on the Judiciary of the House of Representatives and the Senate.''.

SEC. 6. FOREIGN INTELLIGENCE SURVEILLANCE COURT EN BANC.

Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(g) In any case where the court established under subsection (a) or a judge of such court is required to review a matter under this Act, the court may, at the discretion of the court, sit en banc to review such matter and issue any orders related to such matter.''.

SEC. 7. FOREIGN INTELLIGENCE SURVEILLANCE COURT MATTERS.

(a) AUTHORITY FOR ADDITIONAL JUDGES.—Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1) (as so designated)—

(A) by striking ''11'' and inserting ''15''; and

(B) by inserting ''at least'' before ''seven of the United States judicial circuits''; and

(3) by designating the second sentence as paragraph (3) and indenting such paragraph, as so designated, two ems from the left margin.

(b) CONSIDERATION OF EMERGENCY APPLICATIONS.—Such section is further amended by inserting after paragraph (1) (as designated by subsection (a)(1)) the following new paragraph:

''(2) A judge of the court shall make a determination to approve, deny, or modify an application submitted pursuant to section 105(f), section 304(e), or section 403 not later than 24 hours after the receipt of such application by the court.''.

SEC. 8. REITERATION OF FISA AS THE EXCLUSIVE MEANS BY WHICH ELECTRONIC SURVEILLANCE MAY BE CONDUCTED FOR GATHERING FOREIGN INTELLIGENCE INFORMATION.

(a) EXCLUSIVE MEANS.—Notwithstanding any other provision of law, the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which electronic surveillance may be conducted for the purpose of gathering foreign intelligence information.

(b) SPECIFIC AUTHORIZATION REQUIRED FOR EXCEPTION.—Subsection (a) shall apply until specific statutory authorization for electronic surveillance, other than as an amendment to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), is enacted. Such specific statutory authorization shall be the only exception to subsection (a).

SEC. 9. ENHANCEMENT OF ELECTRONIC SURVEILLANCE AUTHORITY IN WARTIME AND OTHER COLLECTION.

Sections 111, 309, and 404 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1811, 1829, and 1844) are amended by striking ''Congress'' and inserting ''Congress or an authorization for the use of military force described in section 2(c)(2) of the War Powers Resolution (50 U.S.C. 1541(c)(2)) if such authorization contains a specific authorization for foreign intelligence collection under this section, or if the Congress is unable to convene because of an attack upon the United States.''.

SEC. 10. AUDIT OF WARRANTLESS SURVEILLANCE PROGRAMS.

(a) AUDIT.—Not later than 180 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall complete an audit of all programs of the Federal Government involving the acquisition of communications conducted without a court order on or after September 11, 2001, including the Terrorist Surveillance Program referred to by the President in a radio address on December 17, 2005. Such audit shall include acquiring all documents relevant to such programs, including memoranda concerning the legal authority of a program, authorizations of a program, certifications to telecommunications carriers, and court orders.

(b) REPORT.—

(1) IN GENERAL.—Not later than 30 days after the completion of the audit under subsection (a), the Inspector General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report containing the results of such audit, including all documents acquired pursuant to conducting such audit.

(2) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) EXPEDITED SECURITY CLEARANCE.—The Director of National Intelligence shall ensure that the process for the investigation and adjudication of an application by the Inspector General or the appropriate staff of the Office of the Inspector General of the Department of Justice for a security clearance necessary for the conduct of the audit under subsection (a) is conducted as expeditiously as possible.

SEC. 11. RECORD-KEEPING SYSTEM ON ACQUISITION OF COMMUNICATIONS OF UNITED STATES PERSONS.

(a) RECORD-KEEPING SYSTEM.—The Director of National Intelligence and the Attorney General shall jointly develop and maintain a record-keeping system that will keep track of—

(1) the instances where the identity of a United States person whose communications were acquired was disclosed by an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) that collected the communications to other departments or agencies of the United States; and

(2) the departments and agencies of the Federal Government and persons to whom such identity information was disclosed.

(b) REPORT.—The Director of National Intelligence and the Attorney General shall annually submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report on the record-keeping system created under subsection (a), including the number of instances referred to in paragraph (1).

SEC. 12. AUTHORIZATION FOR INCREASED RESOURCES RELATING TO FOREIGN INTELLIGENCE SURVEILLANCE.

(a) IN GENERAL.—There are authorized to be appropriated the Department of Justice, for the activities of the Office of the Inspector General, the appropriate elements of the National Security Division, and the National Security Agency such sums as may be necessary to meet the personnel and information technology demands to ensure the timely and efficient processing of—

(1) applications and other submissions to the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a));

(2) the audit and reporting requirements under—

(A) section 105D of such Act; and

(B) section 10; and

(3) the record-keeping system and reporting requirements under section 11.

(b) ADDITIONAL PERSONNEL FOR PREPARATION AND CONSIDERATION OF APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE AND PHYSICAL SEARCH.—

(1) NATIONAL SECURITY DIVISION OF THE DEPARTMENT OF JUSTICE.—

(A) ADDITIONAL PERSONNEL.—The National Security Division of the Department of Justice is hereby authorized such additional personnel as may be necessary to carry out the prompt and timely preparation, modification, and review of applications under Foreign Intelligence Surveillance Act of 1978 for orders under that Act for foreign intelligence purposes.

(B) ASSIGNMENT.—The Attorney General shall assign personnel authorized by paragraph (1) to and among appropriate offices of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) in order that such personnel may directly assist personnel of the Intelligence Community in preparing applications described in that paragraph and conduct prompt and effective oversight of the activities of such agencies under Foreign Intelligence Surveillance Court orders.

(2) DIRECTOR OF NATIONAL INTELLIGENCE.—

(A) ADDITIONAL LEGAL AND OTHER PERSONNEL.—The Director of National Intelligence is hereby authorized such additional legal and other personnel as may be necessary to carry out the prompt and timely preparation of applications under the Foreign Intelligence Surveillance Act of 1978 for orders under that Act approving electronic surveillance for foreign intelligence purposes.

(B) ASSIGNMENT.—The Director of National Intelligence shall assign personnel authorized by paragraph (1) to and among the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))), including the field offices of the Federal Bureau of Investigation, in order that such personnel may directly assist personnel of the intelligence community in preparing applications described in that paragraph.

(3) ADDITIONAL LEGAL AND OTHER PERSONNEL FOR FOREIGN INTELLIGENCE SURVEILLANCE COURT.—There is hereby authorized for the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) such additional staff personnel as may be necessary to facilitate the prompt and timely consideration by that court of applications under such Act for orders under such Act approving electronic surveillance for foreign intelligence purposes. Personnel authorized by this paragraph shall perform such duties relating to the consideration of such applications as that court shall direct.

(4) SUPPLEMENT NOT SUPPLANT.—The personnel authorized by this section are in addition to any other personnel authorized by law.

SEC. 13. DOCUMENT MANAGEMENT SYSTEM FOR APPLICATIONS FOR ORDERS APPROVING ELECTRONIC SURVEILLANCE.

(a) SYSTEM REQUIRED.—The Attorney General shall, in consultation with the Director of National Intelligence and the Foreign Intelligence Surveillance Court, develop and implement a secure, classified document management system that permits the prompt preparation, modification, and review by appropriate personnel of the Department of Justice, the Federal Bureau of Investigation, the National Security Agency, and other applicable elements of the United States Government of applications under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804) before their submission to the Foreign Intelligence Surveillance Court.

(b) SCOPE OF SYSTEM.—The document management system required by subsection (a) shall—

(1) permit and facilitate the prompt submittal of applications to the Foreign Intelligence Surveillance Court under the Foreign Intelligence Surveillance Act of 1978; and

(2) permit and facilitate the prompt transmittal of rulings of the Foreign Intelligence Surveillance Court to personnel submitting applications described in paragraph (1), and provide for the secure electronic storage and retrieval of all such applications and related matters with the court and for their secure transmission to the National Archives and Records Administration.

SEC. 14. TRAINING OF INTELLIGENCE COMMUNITY PERSONNEL IN FOREIGN INTELLIGENCE COLLECTION MATTERS.

The Director of National Intelligence shall, in consultation with the Attorney General—

(1) develop regulations to establish procedures for conducting and seeking approval of electronic surveillance, physical search, and the installation and use of pen registers and trap and trace devices on an emergency basis, and for preparing and properly submitting and receiving applications and orders under the Foreign Intelligence Surveillance Act of 1978; and

(2) prescribe related training on the Foreign Intelligence Surveillance Act of 1978 and related legal matters for the personnel of the applicable agencies of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))).

SEC. 15. INFORMATION FOR CONGRESS ON THE TERRORIST SURVEILLANCE PROGRAM AND SIMILAR PROGRAMS.

As soon as practicable after the date of the enactment of this Act, but not later than seven days after such date, the President shall fully inform each member of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate on the following:

(1) The Terrorist Surveillance Program of the National Security Agency.

(2) Any program in existence from September 11, 2001, until the effective date of this Act that involves, whether in part or in whole, the electronic surveillance of United States persons in the United States for foreign intelligence or other purposes, and which is conducted by any department, agency, or other element of the United States Government, or by any entity at the direction of a department, agency, or other element of the United States Government, without fully complying with the procedures set forth in the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or chapter 119, 121, or 206 of title 18, United States Code.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to sections 105A, 105B, and 105C and inserting the following new items:

''Sec. 105A. Clarification of electronic surveillance of non-United States persons outside the United States.

''Sec. 105B. Additional authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.

''Sec. 105C. Emergency authorization of acquisitions of communications of non-United States persons located outside the United States who may be communicating with persons inside the United States.

''Sec. 105D. Oversight of acquisitions of communications of non-United States persons located outside of the United States who may be communicating with persons inside the United States.''.

(b) SECTION 103(e) OF FISA.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''105B(h) or''; and

(2) in paragraph (2), by striking ''105B(h) or''.

(c) REPEAL OF CERTAIN PROVISIONS OF THE PROTECT AMERICA ACT OF 2007.—Sections 4 and 6 of the Protect America Act (Public Law 110–55) are hereby repealed.

SEC. 17. SUNSET; TRANSITION PROCEDURES.

(a) SUNSET OF NEW PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on December 31, 2009—

(A) sections 105A, 105B, 105C, and 105D of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) are hereby repealed; and

(B) the table of contents in the first section of such Act is amended by striking the items relating to sections 105A, 105B, 105C, and 105D.

(2) ACQUISITIONS AUTHORIZED PRIOR TO SUNSET.—Any authorization or order issued under section 105B of the Foreign Intelligence Surveillance Act of 1978, as amended by this Act, in effect on December 31, 2009, shall continue in effect until the date of the expiration of such authorization or order.

(b) ACQUISITIONS AUTHORIZED PRIOR TO ENACTMENT.—

(1) EFFECT.—Notwithstanding the amendments made by this Act, an authorization of the acquisition of foreign intelligence information under section 105B of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) made before the date of the enactment of this Act shall remain in effect until the date of the expiration of such authorization or the date that is 180 days after such date of enactment, whichever is earlier.

(2) REPORT.—Not later than 30 days after the date of the expiration of all authorizations of acquisition of foreign intelligence information under section 105B of the Foreign Intelligence Surveillance Act of 1978 (as added by Public Law 110–55) made before the date of the enactment of this Act in accordance with paragraph (1), the Director of National Intelligence and the Attorney General shall submit to the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate a report on such authorizations, including—

(A) the number of targets of an acquisition under section 105B of such Act (as in effect on the day before the date of the enactment of this Act) that were later determined to be located in the United States;

(B) the number of persons located in the United States whose communications have been acquired under such section;

(C) the number of reports disseminated containing information on a United States person that was collected under such section;

(D) the number of applications submitted for approval of electronic surveillance under section 104 of such Act based upon information collected pursuant to an acquisition authorized under section 105B of such Act (as in

effect on the day before the date of the enactment of this Act); and

(E) a description of any incidents of noncompliance with an authorization under such section, including incidents of non-compliance by—

(i) an element of the intelligence community with procedures referred to in subsection (a)(1) of such section;

(ii) an element of the intelligence community with minimization procedures referred to in subsection (a)(5) of such section; and

(iii) a person directed to provide information, facilities, or technical assistance under subsection (e) of such section.

(3) INTELLIGENCE COMMUNITY DEFINED.—In this subsection, the term ''intelligence community'' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. ___. CERTIFICATION TO COMMUNICATIONS SERVICE PROVIDERS THAT ACQUISITIONS ARE AUTHORIZED UNDER FISA.

(a) AUTHORIZATION UNDER SECTION 102.—Section 102(a) of the Foreign Intelligence Surveillance Act of of 1978 (50 U.S.C. 1802(a)) is amended by striking ''furnishing such aid'' and inserting ''furnishing such aid and shall provide such carrier with a certification stating that the electronic surveillance is authorized under this section and that all requirements of this section have been met''.

(b) AUTHORIZATION UNDER SECTION 105.—Section 105(c)(2) of such Act (50 U.S.C. 1805(c)(2)) is amended—

(1) in subparagraph (C), by striking ''; and'' and inserting '';'';

(2) in subparagraph (D), by striking ''aid.'' and inserting ''aid; and''; and

(3) by adding at the end the following new subparagraph:

''(E) that the applicant provide such carrier, landlord, custodian, or other person with a certification stating that the electronic surveillance is authorized under this section and that all requirements of this section have been met.''.

SEC. ___. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 109 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1809) is amended by adding at the end the following new subsection:

''(e) STATUTE OF LIMITATIONS.—No person shall be prosecuted, tried, or punished for any offense under this section unless the indictment is found or the information is instituted not later than 10 years after the commission of the offense.''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to any offense committed before the date of the enactment of this Act if the statute of limitations applicable to that offense has not run as of such date.

SEC. ___. NO RIGHTS UNDER THE RESTORE ACT FOR UNLAWFUL RESIDENTS.

Nothing in this Act or the amendments made by this Act shall be construed to prevent lawfully conducted surveillance of or grant any rights to an alien not lawfully permitted to be in or remain in the United States.

The SPEAKER pro tempore. Debate shall not exceed 90 minutes, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence.

The gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 30 minutes and the gentleman from Texas (Mr. REYES) and the gentleman from Michigan (Mr. HOEKSTRA) each will control 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

□ 1230

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material for the RECORD on H.R. 3773.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 6 years ago the administration unilaterally chose to engage in warrantless surveillance of American citizens without court review. That decision created a legal and political quagmire. To fight terrorism and prevent another 9/11, we need to have an effective and legal system of intelligence gathering. That is what we are here to do today.

When that old scheme broke down, the administration then forced Congress to accept an equally flawed statute in August, the Protect America Act. The Protect America Act granted broad, new powers to engage in warrantless searches within the United States, including physical searches of our homes, computers, offices, libraries and medical records. There was a valiant fight against it, but we did not prevail.

Mr. Speaker, at this time I want to acknowledge the great work of the chairman of the Intelligence Committee, SILVESTRE REYES, for what he did, and on the Judiciary Committee I am quite proud of JERRY NADLER of New York, the chairman of the Constitution Subcommittee, and SHEILA JACKSON-LEE, the distinguished gentlewoman from Texas. Also the chairman of the Crime subcommittee, BOBBY SCOTT of Virginia.

The PATRIOT Act granted broad new powers to engage in warrantless searches within the United States. It included, as I said, physical searches of our homes, of our computers, offices, libraries, and even medical records. The law contained no meaningful oversight whatsoever and went around the FISA Court. It should not be made permanent. That is why we are here today with the RESTORE Act, to create a framework for legal surveillance that includes the FISA Court.

Careful consideration by the Judiciary and by the Intelligence Committees addresses the need for flexibility in intelligence gathering and delivers the ability to deal with the modern communications networks. More importantly, it is consistent with the rule of law, the Constitution, and our democratic values.

Let's be clear about how the RESTORE Act's ''basket'' court orders work. These orders are not individual warrants for Osama bin Laden or other terrorists. They allow surveillance of an entire terrorist group or other foreign power through a flexible court process. This act prohibits reverse targeting to engage in warrantless spying on Americans. In approving the order, the court must also approve the guidelines and procedures that will be used to protect the rights of Americans under the Constitution and under the Foreign Intelligence Surveillance Act.

When the intelligence community turns its attention to Americans at home, they will have to get a warrant. That isn't just good policy; this is the critically important fourth amendment in action. So RESTORE even brings the court into the emergency provisions. NSA must notify the court when they start emergency acquisition, and they must seek a court order within seven days. This is not a secret process. The court knows when it is started and is awaiting the application.

Mr. Speaker, the phone company can't even turn on the switch unless it has a certification from the government that they are actively seeking that court order. If the application is turned down, the surveillance shuts off, unless the court specifically stays their ruling, pending appeal. That appeal must be resolved within 45 days. These emergency authorizations are not a backdoor way to avoid court review. In fact, the court will be looking at the emergency from the very first day.

The bill also provides other critical safeguards: periodic audits by the inspector general; narrow scope of authority to security threats, not just anything. It protects privacy of Americans traveling abroad and, most important, sunsets the legislation in December of the year 2009 so that we can review it one more time.

Importantly, the bill has no retroactive immunity for telecommunications carriers whatsoever. Why? Because we have been refused the documents to determine whether retroactive immunity has any place or not. Interestingly enough, that was delivered to the Senate. They have the documents. We, begging, pleading, screaming, we don't have the documents. So no retroactive immunity. Until we receive these underlying documents, there is no way we can begin any consideration of that request. So the legislation before us today is a very, very important start-over improving the measure, the Protect America Act, that still exists.

Please join with me in a careful consideration of everything in this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the Democratic leadership calls the RESTORE Act of 2007 a compromise. Well, I agree. It compromises our national security.

Why do Democrats want to make it more difficult to gather intelligence

about terrorists after 9/11 than before 9/11? Since the Foreign Intelligence Surveillance Act was enacted 30 years ago, our terrorist fighting agencies have been able to gather information about terrorists without obtaining a court order. Why burden our intelligence agencies now? Why make it harder to find Osama bin Laden? Why protect terrorists?

This bill, for the first time, requires a court order to monitor foreign persons outside the United States. If Osama bin Laden makes a call and we don't know who it is to, a court order must be obtained. That takes many hours and could well mean we miss an opportunity to stop an attack.

The bill omits liability protection for telephone companies that provided the Federal Government with critical information after 9/11. These companies deserve our thanks, not a flurry of frivolous lawsuits.

The bill sunsets in 4 years, yet our agencies need certainty and permanence so they can develop new procedures and train employees.

Mr. Speaker, we don't need the RESTORE Act. We do need to restore the ability of the Federal Government to gather information about terrorists and to stop them.

Mr. Speaker, I yield 2 minutes to the minority whip, the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the law in place today, the law that we brought up to today's technical standards in August, is essentially the law that the Congress passed in 1978, a Congress that had a majority of Democrats in it. Jimmy Carter, President Carter, signed that bill, and it has worked for 30 years now.

The way this bill is drafted, the administration would be forced to seek warrants, as Mr. SMITH just said, for foreign targets in case they might call the United States. If Osama bin Laden calls the United States, we should know it. If Osama bin Laden calls and it turns out to be a call that didn't matter, there are ways to minimize that. In all likelihood, if Osama bin Laden called, it shouldn't be a matter that we shouldn't know about. If he calls to order a pizza and says ''deliver the pizza to cave 56 in Bora Bora,'' that is something we ought to know at that minute. We should not have to go to court to monitor these calls, just in case they call somebody in the United States.

Granting what in essence is de facto fourth amendment constitutional rights to noncitizens who are not in this country makes no sense at all. It is not the right direction. We need a permanent fix.

This bill does not contain, as my good friend Mr. CONYERS said, retroactive liability. We need to have liability for those companies that stepped up after 9/11 and immediately helped the country begin to monitor the things we needed to monitor. We still don't clarify in this bill what our intelligence agencies do.

This does not solve any problems. It creates problems. When you have a system that has worked in one way, and effectively, for 30 years, there is no reason to change that system. This bill makes needless, dangerous changes.

I hope we vote ''no'' on this bill today, and get down, as we did in late July, to the reality of what we have to do to defend the country.

Mr. REYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 6 years after the tragic attacks of 9/11, Osama bin Laden remains at large. The minority whip may make light about ordering pizza, but the reality is we still haven't gotten Osama bin Laden and America faces a continuing threat from al Qaeda and other terrorist groups.

Just this week, Admiral Scott Redd, Director of the National Counterterrorism Center, said that the Iraq war has created a giant recruiting tool for al Qaeda. When asked if we are safer as a result of our invasion of Iraq, Admiral Redd said, ''Tactically, probably not.''

Mindful of this threat, our committees have drafted the RESTORE Act. I wish to thank Chairman CONYERS and members of both committees for their great work in drafting this legislation. The RESTORE Act arms our intelligence community with powerful new authorities to conduct electronic surveillance of terrorist targets around the world, but it also restores essential constitutional protections for Americans that were sharply eroded when the President signed the Protect America Act, or PAA, last August.

Some on the other side want to extend the PAA permanently. That would be a huge mistake. According to expert testimony we have received in our committee, the PAA authorizes warrantless domestic searches of Americans' homes, mail, computers and medical records, as the chairman of the Judiciary Committee observed earlier.

Although we don't have any information at this time that the Bush administration is using this authority in this way, we must guard against the possibility of abuse in the future. Our committee heard testimony that the PAA even allows spying without probable cause on our own soldiers deployed overseas talking to their families back home. That, Mr. Speaker, is wrong.

The RESTORE Act helps restore the balance between security and liberty. The RESTORE Act puts the FISA Court back in the business of protecting Americans' constitutional rights, after the President and Vice President put the court out of business 6 years ago.

Some will try to portray this bill as extending rights to terrorists. We have heard that this morning. That is absolutely false. This bill does not require individual warrants for terrorists such as Osama bin Laden. The bill does not extend fourth amendment rights to foreigners.

What the RESTORE Act does is allow ''block surveillance'' of terrorists overseas with speed and agility. And we will never go dark, because the bill includes an emergency provision that allows surveillance to continue for 45 days, even before the court approves the procedures to protect Americans.

This legislation will restore accountability and oversight in all three branches. It restores regular audits and reports by the Department of Justice, which will be reviewed by the Congress. It also requires an audit of the President's Domestic Surveillance Program and other warrantless surveillance programs.

Perhaps most importantly, it ensures that when an American is the target of surveillance, an individualized warrant is required.

Some of my colleagues on the other side prefer an approach that would allow the administration to police itself. This simply is unacceptable. If we have learned anything from the past 6 years, it is that unchecked executive power is a recipe for abuse and it has not made us safer.

□ 1245

Mr. Speaker, I have served my country as a soldier in combat in Vietnam, as a law enforcement professional on our southern border, and as a Member of Congress for the past decade. I have seen the great strength of our country; and in my view, the source of that great strength is our Constitution. The RESTORE Act provides tools to keep this Nation safe and upholds our Constitution and our laws. So I urge my colleagues to vote ''yes'' on the RESTORE Act.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the former chairman and current ranking member of the Homeland Security Committee, the gentleman from New York (Mr. KING).

Mr. KING of New York. I thank the ranking member for yielding and, Mr. Speaker, I rise today in opposition to this legislation.

Mr. Speaker, the United States has been at war with Islamic terrorism since September 11, 2001. This is a war which threatens our survival as a civilization, and it is a war where it is essential that we maximize the use of electronic surveillance which is one of the strongest weapons in our arsenal. It is a weapon which should not be trivialized, nor should the struggle be trivialized by using such terms as ''spying'' and ''snooping.''

It is important we keep in mind who the real enemy is. The real enemy is al Qaeda and Islamic terrorism, not the men and women of our own government who are working so hard to protect us.

Mr. Speaker, the Protect America Act, which was passed less than 3 months ago, updated FISA and struck the appropriate balance between protecting our citizens from terrorist attacks and protecting our civil liberties.

Tragically, today's bill, the RESTORE Act, marks an undeniable retreat in the war against Islamic terrorism. It limits the type of foreign intelligence information that may be acquired and actually gives foreign targets more protections than Americans get in criminal cases here at home.

By sunsetting this legislation in 2 years, the RESTORE Act fails to provide permanency and guidance to the intelligence community. The RESTORE Act also fails to provide legal protection and immunity to those American companies who answered the call of this administration and also answered the call of an administration which believed that this policy was legal, and not only this administration, but high-ranking officials from previous administrations, Democrat and Republican, who believed that these policies were legal and constitutional. There was no personal gain for these companies. To allow them to be subjected to lawsuits for answering the Nation's call in time of great peril is mean-spirited, vindictive and shortsighted.

Mr. Speaker, I strongly urge defeat of this misguided legislation.

Mr. CONYERS. Mr. Speaker, I am proud to recognize the chairman of the Crime Subcommittee, BOBBY SCOTT of Virginia, for 3 minutes.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding and appreciate his leadership in efforts to address warrantless surveillance under the Foreign Intelligence Surveillance Act, or FISA, and for introducing a bill that corrects many of the shortcomings of the bill that passed the House last August.

The RESTORE Act establishes a strong framework, much stronger than the administration's bill, to fight terrorism effectively, while providing reasonable safeguards to protect personal privacy. There are several important clarifications made in the bill.

One important change draws the appropriate distinctions based on physical location and types of targets. There has never been any controversy over the fact that surveillance directed at people, all of whom are overseas, you don't need a warrant in that situation.

The second is that the bill removes vague and overbroad language in the bill that passed last August that would allow wiretapping of conversations without a warrant if the communication was concerning a foreign target. That by its own wording suggests that if two citizens are in the United States talking about someone overseas, you could wiretap their communications without a warrant. The bill before us makes it clear that the persons involved in the conversation must be overseas, not just that the subject of the conversation must be overseas.

Third, the RESTORE Act goes a step further than the administration's bill and only allows expanded wiretapping authority in cases involving foreign intelligence unless it relates specifically to national security, as opposed to the overexpansive nature of foreign intelligence. Foreign intelligence can include anything, a trade deal or anything of general foreign affairs activities. If you are talking about national security, let's talk about national security.

Finally, the RESTORE Act was made even stronger in the committee by requiring the Department of Justice in its application to the court to specify the primary purpose of the wiretapping. Under FISA, when an agent wanted to obtain a warrant, he had to certify the purpose of the wiretap. The standard was altered in the PATRIOT Act which says it only has to be a significant purpose.

We have to put this change in context because the Department of Justice has not credibly refuted the allegations that some U.S. Attorneys were fired because they failed to indict Democrats in time to affect an upcoming election. So if the Department of Justice wiretapped someone when foreign intelligence is not the primary purpose, you have to wonder what the primary purpose is. This bill would require the administration to reveal the true purpose of the wiretap.

Mr. Speaker, in the fight against terrorism, we do not have to sacrifice constitutional protections or trust this administration to secretly protect the rights of Americans without public accountability. It is important to note that everything that the administration can do in its own bill it can do under this bill. We just require them to get a warrant before they do it or get a warrant after they do it if they are in a hurry, but they can wiretap and get the information. We just provide a little modicum of oversight to ensure that the laws are being obeyed.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. FORBES), the ranking member of the Crime, Terrorism and Homeland Security Subcommittee of the Judiciary Committee.

Mr. FORBES. Mr. Speaker, as you listen to this debate and those watching at home listen to it, the only thing that they hear are Democrats saying one thing and Republicans saying another thing. They don't know who to believe. They listen to the debate and they hear hatred of the Presidency and hatred of Republicans. But, Mr. Speaker, we just invite you today, take a moment and a breath and put all of that hatred on the shelf for just a second, and to remember that the Director of National Intelligence, not an appointee from President Bush but from President Clinton, has stated that their approach will be devastating to the intelligence-gathering capability of the United States.

Mr. Speaker, here are the facts that we know. In the late 1990s, we cut intelligence. Then we had 9/11 where we had the worst terrorist attack to ever hit our shores. Since that time, regardless of who did it and deserves the credit, we have not had a major terrorist attack hit the United States, and now we are trying to repeat the cycle and cut intelligence-gathering capability again. We all know what is going to happen if, and some would say when, another terrorist attack hits. We are going to bring law enforcement in and we are going to point our finger at them and say: Why didn't you stop it?

Mr. Speaker, just recently we had one of our NFL football coaches get in trouble because he was trying to steal the signals of an opposing team. Everyone argued and agreed that wasn't fair. And they were right; but that was a game. Mr. Speaker, in this particular situation it is not a game. We don't want a fair fight. We want to steal every signal we can from enemies who are trying to harm this Nation, and we want to know what they are doing before they do it so we can protect and defend this country.

Mr. Speaker, I just invite us to take the hatred off the shelf, take the rhetoric off the shelf, and to exchange it for ration and reason so we can do what we need to do to gather the intelligence to keep our people safe.

Mr. REYES. Mr. Speaker, it is my pleasure to yield 1½ minutes to the gentleman from Iowa (Mr. BOSWELL), a fellow Vietnam veteran, a member of the House Intelligence Committee.

Mr. BOSWELL. Mr. Speaker, first I support this bill. It is a good bill, and it protects the Constitution.

I would like to speak principally to my colleagues who, like me, are concerned about what the bill does and the fact that it does not address fully the issue of carrier liability. As you know, the administration and telecommunication companies have requested that we provide them with immunity from lawsuits or prosecutions arising out of information and assistance they may have provided to the intelligence community.

Now, we don't precisely know what information they have provided. We don't know what they were told by the administration about the legality of what they were doing. I hope and believe those companies acted in good faith with patriotism. They were trying to do their part for national security, and I think they deserve our appreciation. I take seriously their concerns that they might be subject to liability.

That being said, I don't believe it should be the responsibility of the telecommunications companies to prove that they provided the information in a legal way if the Federal Government fails to meet the burden of proof that the demand or request for information is brought forth in a legal manner. If that burden of proof is not met, it should be the government that should be held primarily accountable.

I believe that eventually we should be able to take care of any company who acted in good faith and cooperated in the name of protecting our Nation.

No one who acted out of good faith with a desire to protect America should be punished. But we must know what brought forth their action, and under what circumstances, and what pressure, if any, they acted. As this process moves forward, I expect to get more information from the administration on their generation of the demands or requests for information. Support the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to my colleague and the former district judge from Texas (Mr. GOHMERT), who is also the deputy ranking member of the Crime, Terrorism and Homeland Security Subcommittee of the Judiciary Committee.

Mr. GOHMERT. I thank the ranking member.

I appreciate Chairman REYES' service to this country. I believe people on the other side of the aisle mean well when they say they want to protect the Constitution. The problem is this extends the Constitution beyond America to our enemies on foreign soil who cut off heads of Americans. That's just the way it is. It does that.

Now, we keep hearing across the aisle: This has nothing to do with foreign-to-foreign calls; it has nothing to do with foreign terrorists on foreign soil calling foreign terrorists, and it says that in the bill. You don't have to worry about that. You don't need a warrant for that.

The trouble is there is no conceivable time that an honest intelligence gatherer overseas can swear that a foreign terrorist that he wants to surveil will never under any circumstances call the United States. Since he can't swear to that and since there is a chance, especially since this law is public and the terrorists will know all they need to do is call America, order flowers, call time and temperature, they have made a call on American soil and they come within the requirement of getting a court order. It is very clear.

This doesn't extend the Constitution in a way that it should be on American soil. It protects enemies. I know people on the other side, you just want to protect civil liberties, but what scares me is what will happen when a terrorist attack in the nature of 9/11 comes again. People will rush to take away civil liberties, and people will voluntarily give up civil liberties for protection, liberties that were so hard fought.

So for those who are really going to be protected, I don't understand the concern. This is going to protect also Americans who get calls from foreign terrorists on foreign soil. That is what this is really going to do.

I don't think it is too much in the interest of America, tell your American friends to tell their terrorist friends on foreign soil, don't call me, use some other means of communication.

Mr. CONYERS. Mr. Speaker, I am pleased now to recognize the gentlewoman from California (Ms. HARMAN) whose experience in intelligence matters and FISA in particular are well known, and I yield to her 2½ minutes.

□ 1300

Ms. HARMAN. Mr. Speaker, I thank Chairman CONYERS for yielding to me and commend him, Chairman REYES, and others for their work on this bill.

Though I no longer serve on the Intelligence Committee, I have followed this issue with intense interest. This bill contains many provisions that I and others authored over recent years. It is a strong bill and I strongly support it.

It amends FISA to permit more speed and agility in the effort to conduct surveillance of those who would do us harm, but it also provides more resources in a court-approved framework to assure that the constitutional rights of Americans are protected.

I continue to follow the intelligence in my role as Chair of the Homeland Security Intelligence Subcommittee, and threats against our homeland are real. Westerners are training in al Qaeda camps in the tribal areas of Pakistan. Europe, especially Britain, may experience more attacks. Plots have recently been foiled in Denmark and Germany. We helped Britain disrupt the so-called ''liquid bomb plot'' in August of 2006, a plot that could have killed more Americans than were killed on 9/11 as they flew on U.S.-bound airlines from England.

Mr. Speaker, all Members want to protect America. All Members want to protect America. So it deeply saddens me that this is yet another partisan debate. It could have been otherwise.

For several weeks, PETE HOEKSTRA, who chaired the Intelligence Committee when I was privileged to serve as ranking member, and I tried to fashion a bipartisan bill. Our list of principles could, I believe, have garnered broad support in both caucuses and led to a veto-proof majority in this House.

Americans want Congress on a bipartisan basis to assure we disrupt plots to harm us and protect our Constitution. We could do both and we must do both. This is a strong bill. It does both. Vote ''aye.''

Mr. EVERETT. Mr. Speaker, I rise today in strong opposition to the RESTORE Act, which reauthorizes the Foreign Intelligence Surveillance program. As a Member of the Select Committee on Intelligence, I am deeply troubled that the majority has determined to handcuff the ability of the Intelligence Community (IC) to collect foreign intelligence information.

Forgive me for stating the obvious, but ladies and gentleman, we are at war. We should be helping the IC in their efforts to protect Americans and fight the war on terror; this legislation needlessly ties our hands in collecting foreign intelligence information.

Here are a few of the problems with this bill: No liability protection for the telecommunications companies who have responded to the IC's call for help since the 9/11 attacks; extends constitutional (4th Amendment) protections for terrorists by requiring FISA court approval to monitor individuals outside the U.S.; new and cumbersome FISA court guidelines for IC operations; Justice Department audits of IC activities and operations; onerous and duplicative reporting requirements by the DNI; and the list goes on . . . .

Mr. Speaker, under this legislation, the Majority has made it clear that our Intelligence agencies should be guided by the tenants of the American Civil Liberties Union (ACLU) when monitoring terrorist activity.

This policy is reckless and I urge a ''no'' vote.

Mr. BACA. Mr. Speaker, I rise today to ask for support of the RESTORE Act. It provides important tools to support U.S. intelligence gathering efforts and protects against terrorists. And it does so while safeguarding Americans' civil liberties.

I hope that as the legislative process plays out, the issue of carrier immunity is dealt with in a manner that will facilitate cooperation. Obtaining intelligence to protect our country against terrorists is the ultimate goal and this bill does this in a fair and balanced manner. Innocent Americans will have stronger protections and the intelligence needed to protect our country will not be compromised. Accountability is always a good thing.

We will have much needed congressional oversight, compliance reports from the Attorney General and audit reports by the Inspector General of the Department of Justice.

The RESTORE Act is a great balance and a positive move in the right direction.

Please support this important legislation.

Mr. CHANDLER. Mr. Speaker, while I am pleased to stand here today and support the RESTORE Act of 2007 because I believe it is critical as part of our nation's defense, I urge us to work together in the coming weeks to end the uncertainty facing some of our corporate citizens in dealing with the threat posed by Islamic fundamentalists.

Particularly, I am referring to our nation's telecommunications carriers, companies that historically have been a critical piece of our successful national security apparatus. These U.S. companies, who combined employ well over half a million Americans, should be treated with appreciation for the cooperation they display in the effort to keep our people safe.

In the confusion and muddied backdrop of the debate, what has clearly been left aside is the longstanding and consistent policy of Congress and the courts that governs the way these companies may lawfully provide assistance to law enforcement and intelligence agencies. This policy is that telecommunications carriers are authorized to assist government agencies in a wide variety of circumstances; public policy encourages such cooperation; and, consistent with that policy, when a carrier cooperates in good faith with a duly authorized request for assistance, the carrier is immune from liability to third-parties. In the interest of our nation's security, these carriers should continue to have immunity when cooperating in good faith.

We must work together over the coming weeks to clarify the role of carriers in this debate, and specifically offer the appropriate path to immunity when such highly sensitive matters are involved. Telecommunications carriers are nothing less than patriotic citizens fulfilling their role in our global struggle against terrorism.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 746, further proceedings on the bill will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 1 minute p.m.), the House stood in recess subject to the call of the Chair.

□ 1453

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ROSS) at 2 o'clock and 53 minutes p.m.

PROVIDING FOR CONSIDERATION OF H.R. 2095, FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

Ms. MATSUI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 724 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 724

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2095) to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. During consideration in the House of H.R. 2095 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

The SPEAKER pro tempore. The gentlewoman from California is recognized for 1 hour.

Ms. MATSUI. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Ms. MATSUI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous materials into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H. Res. 724 provides a structured rule for consideration of H.R. 2095, the Federal Railroad Safety Improvement Act of 2007. The resolution provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule makes four amendments in order. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI.

As the debate in the Rules Committee demonstrated, Members on both sides of the aisle are focused on getting this bill to conference and onto the President's desk, and this rule reflects that consensus.

I want to thank Chairman OBERSTAR and Chairwoman BROWN for their leadership in addressing rail safety issues. Attention and investment to the safety of our rail infrastructure and workers is needed.

Congress last reauthorized the Federal Railroad Administration, also known as FRA, rail safety programs in 1994 and that authorization lapsed in 1998. In the time since Congress last took a comprehensive look at railroad safety, much has changed with our Nation's freight and passenger rail infrastructure. The amount of goods transported by rail has increased dramatically and more often our population is turning to rail as an alternative to getting into their cars. This is creating a greater demand on our rail infrastructure.

The bill before us today, the Federal Railroad Safety Improvement Act of 2007, would authorize our Federal rail safety programs at $1.2 billion over 4 years. This bill makes important investments in our current rail safety programs and creates new grant programs for grade crossing safety and train control technology.

Additionally, the importance of safety will be reflected in the renaming of the FRA to the Federal Railroad Safety Administration. This is significant because a new name would emphasize the Federal role in the safety of rail transportation.

A fresh look at rail safety is long overdue. Over the next 20 years, the demand for freight and passenger rail is expected to grow and continue to play an important role in our economy and in our communities. Now is the time to make an investment in the safety of our rail infrastructure, as well as the training of the men and women who work on the rail lines. This way we can embrace the growth of our Nation's infrastructure and face it in a responsible way.

For example, the Department of Transportation has estimated that the amount of freight moved on rail will increase by 50 percent from 1998 to 2020. If you live in a community with a rail line, you are already experiencing this growth firsthand. In my district of Sacramento, there are two freight lines, and the largest railroad switching yard west of the Mississippi lies just outside of my district in Roseville. I understand how big a role freight lines play in a community. When something goes wrong with a freight line, the community knows about it immediately. Freight carried by these rail lines must be transported safely and securely, particularly when it travels through densely populated urban areas.

As the freight rail industry continues to grow, it will need a well-trained and safe workforce. Addressing safety and training issues now will benefit all our communities and our national economy in future years.

□ 1500

This bill makes that investment and nearly doubles the number of FRA inspectors from 440 to 800.

Safety on our passenger rail lines is equally important. In fiscal year 2007, close to 26 million passengers chose to take trains. This is a 6.3 percent increase from the previous year. We can only expect these ridership numbers to increase as Americans seek travel alternatives in an attempt to turn away from congested highways and overstressed airlines.

In northern California, the Capital Corridor line has shown incredibl increases in ridership. In 1998, 544,000 passengers traveled on the Capital Corridor line. In 2007, the Capital Corridor ridership has almost tripled to almost 1.5 million passengers.

In 2007, throughout the entire State of California, 5 million passengers rode

on rail. Translated to vehicle miles, that is 500 million miles, which, simply put, means half a billion vehicle miles not on our highways and thus saving gas, reducing congestion and not polluting our air.

I say this because we need to protect and encourage this upward trend not only in California but across the Nation.

To do this, it is important that we invest in safety at a proportional rate to our ridership growth and freight growth. Our citizens must continue to have confidence in our rail infrastructure.

Finally, the demand on our rail infrastructure has outgrown our ability to keep our rail system safe. We must also ensure that our rail workers are getting the training they need, but also the rest between shifts.

According to the FRA, 40 percent of all train accidents are the result of human factors, and one in four of those accidents result from fatigue. These accidents are preventable, and it's time that we address the problem.

This bill makes the necessary changes to address employee fatigue. It increases the minimum rest period for employees from 8 to 10 hours and also phases in a limit of 10 hours of the amount of limbo time an employee can accrue each month.

In closing, this bill addresses the critical issues of worker fatigue, timely and thorough inspections, as well as enforcement of safety regulations. In short, this bill reinstates rail safety as a top priority for our communities, workforce, and the millions of people who ride our rail lines.

I encourage my colleagues to vote for this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I'd like to thank my friend, the gentlewoman from California (Ms. MATSUI) for the time, and I yield myself such time as I may consume.

The Federal Railroad Administration was created by the Department of Transportation Act of 1966. The Federal Railroad Administration, FRA, is charged with overseeing the Federal rail safety program.

As all of our colleagues know, Mr. Speaker, railroads crisscross every congressional district, and their safe operation is of national importance, especially since they play such an integral part in our national economy by transporting products and people to and from ports, and in the instance of products, from manufacturers, to suppliers, to the consumers.

Since 1978, there's been a dramatic decline in the number of railway accidents. Last year, there were just over 2,800 such accidents, obviously too many, but a significant decline compared to the past. Obviously more can be done to reduce the number of accidents and save lives, and more should be done.

FRA classifies the causes of train accidents into five categories: human factors, track and structures, equipment, signal and train control, and miscellaneous. Of those categories, human factors and track are responsible for the majority of train accidents. Last year, 2006, over 70 percent of such accidents were caused by human factors or track defects.

Most rail-related deaths are to pedestrians on rail lines, trying to cross obviously, and motorists colliding with trains at grade crossings. While there are nearly 1,000 rail-related deaths each year, about 20 to 30 rail employees unfortunately are killed while on duty each year.

The underlying legislation being brought forward by this rule, the Federal Railroad Safety Improvement Act of 2007, seeks to reduce the number of accidents caused by human fatigue by strengthening the hours of service law for signalmen and train crews. The legislation makes changes to what is known as limbo time, which is the wait period when locomotive crews wait for pickup after a day's run. Specifically, the bill phases down limbo time over 3 years, 40 to 30 to 10 hours per month. The bill also creates new exceptions to limbo time in the case of an accident, track obstruction, weather delays or natural disasters. It gives signal and train workers additional hours of rest, 10 hours in 24, and mandatory days off, 1 in 7.

The Department of Transportation estimates that by 2020 the amount of freight moved by rail, measured by weight, will increase by approximately 50 percent. Furthermore, many local governments are interested in establishing, or expanding, commuter rail operations, which often operate on the freight rail network. As a result, the number of train miles on the Nation's freight rail network will significantly increase in the coming years. If train accident rates do not improve, this will lead obviously to an increased number of accidents, injuries and fatalities and some of the gains of the past decade may be lost, and obviously we'd like to avoid that.

I'd like to thank both Chairman OBERSTAR and Ranking Member MICA for their bipartisan work on this legislation, especially on this issue of the limbo time. I think it goes to show that when people are willing to work together across the aisle to try to come up with compromises that good progress can be made.

Now, unlike the bipartisan nature by which the Transportation Committee worked on this bill, the majority in the Rules Committee did not live up to that standard. Only four out of 10 amendments. There were 10 amendments proposed. A lot of time those amendments take a lot of work by Members, a lot of work, a lot of time, a lot of dedication, and only four out of the 10 amendments that Members brought to the Rules Committee were made in order, and of those, only one was an amendment by a Member of the Republican side of the aisle.

During consideration of this rule, Mr. Speaker, the minority made several attempts to make Republican amendments in order, but in the Rules Committee, the majority blocked each amendment by a party-line vote, and I think that's unfortunate. It's quite a contrast to how the Transportation Committee worked and some other committees in this Congress.

It's unfortunate, especially when we take into account the promises made by the majority that they would bring transparency and openness and fairness to the process. We see time and time and time again exactly the opposite. This is really sad.

Mr. Speaker, I reserve my time.

Ms. MATSUI. Mr. Speaker, I'd like to inquire of the gentleman from Florida if he has any more speakers.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I would inform my friend that we do not.

Ms. MATSUI. Okay. I'm prepared to close after he's finished.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, thank you very much for your courtesy. I thank my good friend Ms. MATSUI for hers as well.

Again, with regard to the underlying legislation, it's important legislation. I think it's a good work product that's come forth from compromise, people reaching out from both sides of the aisle and working together. But the rule, unfortunately, is most unfair, as is typically the case with this new majority.

Mr. Speaker, I will be asking for a ''no'' vote on the previous question so that we can amend this rule and allow the House to consider a change to the rules of the House to restore accountability and enforceability to the earmark rule.

Under the current rule, so long as the chairman of a committee of jurisdiction includes either a list of earmarks contained in the bill or report, or a statement that there are no earmarks, no point of order lies against the bill. This is the same as the rule in the last Congress.

However, under the rule as it functioned under the Republican majority in the 109th Congress, even if the point of order was not available on the bill, it was always available on the rule as a question of consideration. But because the Democratic Rules Committee specifically exempts earmarks from the waiver of all points of order, they deprive Members of the ability to raise the question of earmarks on the rule or on the bill.

I'd like to direct our colleagues, Mr. Speaker, to a letter that the House Parliamentarian, Mr. John Sullivan, recently sent to the Rules Chair, Ms. SLAUGHTER, which confirms what we have been saying since January, that the Democratic earmark rule contains loopholes. In his letter to Chairwoman SLAUGHTER, the Parliamentarian states

that the Democratic earmark rule ''does not comprehensively apply to all legislative proposition at all stages of the legislative process.''

I will insert this letter in the RECORD at this point.

HOUSE OF REPRESENTATIVES,
OFFICE OF THE PARLIAMENTARIAN,
Washington, DC, October 2, 2007.

Hon. LOUISE MCINTOSH SLAUGHTER,
Committee on Rules, House of Representatives, Washington, DC.

DEAR CHAIRWOMAN SLAUGHTER: Thank you for your letter of October 2, 2007, asking for an elucidation of our advice on how best to word a special rule. As you also know, we have advised the committee that language waiving all points of order ''except those arising under clause 9 of rule XXI'' should not be adopted as boilerplate for all special rules, notwithstanding that the committee may be resolved not to recommend that the House waive the earmark-disclosure requirements of clause 9.

In rule XXI, clause 9(a) establishes a point of order against undisclosed earmarks in certain measures and clause 9(b) establishes a point of order against a special rule that waives the application of clause 9(a). As illuminated in the rulings of September 25 and 27, 2007, clause 9(a) of rule XXI does not comprehensively apply to all legislative propositions at all stages of the legislative process.

Clause 9(a) addresses the disclosure of earmarks in a bill or joint resolution, in a conference report on a bill or joint resolution, or in a so-called ''manager's amendment'' to a bill or joint resolution. Other forms of amendment—whether they be floor amendments during initial House consideration or later amendments between the Houses—are not covered. (One might surmise that those who developed the rule felt that proposals to amend are naturally subject to immediate peer review, though they harbored reservations about the so-called ''manager's amendment,'' i.e., one offered at the outset of consideration for amendment by a member of a committee of initial referral under the terms of a special rule.)

The question of order on September 25 involved a special rule providing for a motion to dispose of an amendment between the Houses. As such, clause 9(a) was inapposite. It had no application to the motion in the first instance. Accordingly, Speaker pro tempore Holden held that the special rule had no tendency to waive any application of clause 9(a). The question of order on September 27 involved a special rule providing (in pertinent part) that an amendment be considered as adopted. Speaker pro tempore Blumenauer employed the same rationale to hold that, because clause 9(a) had no application to the amendment in the first instance, the special rule had no tendency to waive any application of clause 9(a).

The same would be true in the more common case of a committee amendment in the nature of a substitute made in order as original text for the purpose of further amendment. Clause 9(a) of rule XXI is inapposite to such an amendment.

In none of these scenarios would a ruling by a presiding officer hold that earmarks are or are not included in a particular measure or proposition. Under clause 9(b) of rule XXI, the threshold question for the Chair—the cognizability of a point of order—turns on whether the earmark-disclosure requirements of clause 9(a) of rule XXI apply to the object of the special rule in the first place. Embedded in the question whether a special rule waives the application of clause 9(a) is the question whether clause 9(a) has any application.

In these cases to which clause 9 of rule XXI has no application in the first instance, stating a waiver of all points of order except those arising under that rule—when none can so arise—would be, at best, gratuitous. Its negative implication would be that such a point of order might lie. That would be as confusing as a waiver of all points of order against provisions of an authorization bill except those that can only arise in the case of a general appropriation bill (e.g., clause 2 of rule XXI). Both in this area and as a general principle, we try hard not to use language that yields a misleading implication.

I appreciate your consideration and trust that this response is to be shared among all members of the committee. Our office will share it with all inquiring parties.

Sincerely,

JOHN V. SULLIVAN.

This amendment will restore the enforceability and accountability of the earmark rule to where it was at the end of the 109th Congress to provide Members with an opportunity to bring the question of earmarks before the House for a vote. I would urge all my colleagues to close this loophole by opposing the previous question.

Mr. Speaker, at this time, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield back the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida and yield myself the balance of my time.

Let me first say that the earmark rule is not waived in this rule despite the claims of my colleagues. I urge them to read lines 6 and 7, that the rule specifically excludes the earmark rule from the waiver. Any suggestion otherwise is simply untrue.

Mr. Speaker, this bill is important to our economy and the millions of Americans who travel on trains every year. This is the first time in well over a decade that Congress has taken a comprehensive look at our rail safety programs. During that time, the demand on our freight and passenger rail infrastructure has increased dramatically.

This bill addresses the critical issues of worker fatigue, timely and thorough inspections, as well as enforcement of safety regulations.

I urge a ''yes'' vote on the previous question and on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 724 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, add the following:

SEC. 3. That immediately upon the adoption of this resolution the House shall, without intervention of any point of order, consider the resolution (H. Res. 479) to amend the Rules of the House of Representatives to provide for enforcement of clause 9 of rule XXI of the Rules of the House of Representatives. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Rules; and (2) one motion to recommit.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R–Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools

for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. MATSUI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of H. Res. 724, if ordered; and suspending the rules on H. Con. Res. 222.

The vote was taken by electronic device, and there were—yeas 218, nays 194, not voting 19, as follows:

[Roll No. 977]

YEAS—218

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Wynn
Yarmuth

NAYS—194

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—19

Carson
Culberson
Hastert
Hirono
Jindal
Johnson, E. B.
Jones (OH)
Knollenberg
Lewis (GA)
Mahoney (FL)
Markey
Moore (WI)
Musgrave
Olver
Scott (GA)
Tancredo
Whitfield
Wilson (OH)
Young (AK)

□ 1537

Ms. GINNY BROWN-WAITE of Florida changed her vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Ms. HIRONO. Mr. Speaker, on rollcall No. 977, I voted electronically, but for some reason, my vote was not recorded. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING NASA LANGLEY RESEARCH CENTER ON ITS 90TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the concurrent resolution, H. Con. Res. 222, on which the yeas and nays were ordered.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. LAMPSON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 222.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 10, as follows:

[Roll No. 978]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carter
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon

Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (FL)

NOT VOTING—10

Carson
Jindal
Johnson (GA)
Johnson, E. B.
Lewis (GA)
Markey
Peterson (PA)
Tancredo
Wilson (OH)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

□ 1548

Mr. SHAYS, Mr. HELLER of Nevada, Mr. SULLIVAN, Mrs. SCHMIDT, Mrs. CUBIN, and Mr. TERRY changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2095, and to include extraneous material in the RECORD pertinent thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 724 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2095.

□ 1550

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2095) to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes, with Mr. POMEROY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. SHUSTER) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and colleagues, we gather here for an historic moment in the history of transportation, particularly the history of rail transportation. And I'm glad there are so many Members still gathered on the floor to listen to an erudite conversation that we are going to have on both sides of the aisle about the history of rail safety.

Although our committee has had jurisdiction over the rail sector for the past dozen years, this is the first time the committee has brought a rail safety authorization bill to the House floor. It is, in fact, only the second time in 100 years that the House will consider amendments, adjustments to the hours of service rule in the rail sector.

We bring to you an important bill that addresses long-neglected failings and shortcomings of safety in the rail sector that will make the railroad safer in the future; that will make jobs for workers in that sector safer in the future; that will make safer passage through towns through which railroads pass, often with toxic substances, toxic chemicals, frankly, the safest way to move those substances, but we are going to make it safer with this legislation.

I particularly want to thank the distinguished Chair of the Subcommittee on Railroads, the gentlewoman from Florida (Ms. CORRINE BROWN) for her persistent leadership, persistent efforts over the past years of service on the committee in support of rail safety; and the gentleman from Florida (Mr. MICA), ranking member of the full committee, participating in substantive discussions that resulted in compromises that we bring to the floor; and to the gentleman from Pennsylvania (Mr. SHUSTER), who has a large rail presence in his own district and, of course, in the State of Pennsylvania.

In each of the past five Congresses, I have introduced for consideration by the committee broad scope rail safety legislation and pledged that if it isn't considered in each of those Congresses, when the majority would turn and I would have the opportunity to lead the committee, that we would move such legislation. And today we deliver on that commitment.

The discussions that we had were inclusive. They were extensive. They were intensive. There were adjustments made on both sides with the result that, as the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) said during consideration of the rule, this is a bipartisan bill.

The Federal Railroad Administration has reported that the total number of train accidents, collisions, derailments, and others increased from 2,504 in 1994 over the next decade to 3,325 in 2005. Thankfully, over the last year, that number decreased to 2,925. Those improvements in rail safety statistics are a good sign. But I know from more than 25 years of chairing subcommittees on safety issues that we have a long way to go. Serious accidents resulting in fatalities, injuries, and environmental damages continue to occur and will continue to occur. Equipment can fail, people make mistakes, storms happen that cause those accidents. But we have to do everything that is possible in our realm to make sure that those accidents are minimized.

Safety requires constant vigilance by workers on the job, by employers, by

government safety oversight agencies, and by the Congress. Whether it is in mining, whether in maritime, whether in aviation, trucking, highway passenger vehicle traffic, or in the railways, vigilance is the key to safety. Safety, I define, is the relative absence of risk. And when we apply that standard to every mode of transportation and we enforce it, we will achieve greater protection of the public interest.

The FRA says that 40 percent of all train accidents result from human factors, and that's a comparable number in the other modes of transportation as well. In railroading, one in four of those accidents results from fatigue. In testimony at our committee hearings, the National Transportation Safety Board said, ''The current railroad hours of service laws permit, and many rail carriers require, the most burdensome, fatigue-inducing work schedule of any federally regulated transportation mode in the country.'' And a comparison of the modes is revealing.

A commercial part 121 airline pilot can work up to 100 hours a month. A part 135, generally known as a charter operation, can work up to 120 hours a month. Shipboard personnel on oceangoing vessels can work up to 360 hours a month. A truck driver can be on duty for 350 hours a month. But in train crews, they can be on duty up to 432 hours a month. That's 14 hours a day for each of those 30 days.

Fatigue sets in. Fatigue causes people to lose concentration, to lose focus, to lose control. Vince Lombardi said, ''Fatigue makes cowards of us all.'' He didn't mean physical cowards. He meant inability to make the right judgments.

□ 1600

And that's what fatigue does in the workplace. If you have any question about it, look at some of the things we say around this body at 2, 3 or 4 o'clock in the morning after 14 or 16 hours of debate. It doesn't make a whole lot of sense when you listen to it or when you read it. And it doesn't make any better sentence in the locomotive.

Congress made some slight modifications to the hours of service law in 1969, but this bill is the first major reform of rail hours of service standards since 1907. Our duty is to make hours of service safer and better. And this bill provides signal and train crews with rest, prohibits them from working more than 12 hours in a day, limits limbo time. I said in the beginning of the hearing, if it was good enough for the Pope to eliminate limbo, it ought to be good enough for the Congress to at least limit it in rail service.

The bill also requires all class 1 railroads to implement a positive train control system, which was the NTSB's most wanted transportation safety improvement since this was developed in 1990.

The legislation also addresses track safety. In 2006, track-related accidents surpassed human factors as the leading cause of all train accidents. Just look at the list. Most recently, in Oneida, New York; Pico Rivera in California; Home Valley in Washington; Minot, North Dakota; Nodaway, Iowa. All of them raise serious questions about the condition and the safety of the track on the Nation's railways, call into question the adequacy of track safety regulation and FRA's, Federal Railroad Association's, oversight of those conditions.

This bill requires the railroads to inspect their tracks, to look for internal defects, and provides increased funding for Federal Railroad Administration for track inspection technology, and strengthens enforcement at the Federal Railroad Administration.

FRA investigated just 13 percent of the most serious grade crossing collisions. We've got to do better than that. In 2004, the FAA conducted onsite investigations of 1,392, 93 percent of the aviation accidents that FAA had responsibility for investigating, but the FRA did only 13 percent. That's not good enough. That's not conducting oversight. That's not accepting and exercising your governmental oversight responsibility and responsibility to the public.

We increase the number of inspectors for safety at the FRA. We will double the number of Federal rail safety inspectors over the next 4 years. And we do many other items that are of great importance. I will include in the RECORD at this point the committee document that lists in specific detail all those safety improvements.

H.R. 2095, THE FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

REAUTHORIZES THE FRA

Establishes the FRSA. Re-establishes the Federal Railroad Administration as the Federal Railroad Safety Administration (FRSA), which shall consider the assignment and maintenance of safety as the highest priority. Creates a new position of Chief Safety Officer.

Rail Safety Strategy. Requires the Secretary to develop a long-term strategy for improving rail safety, which must include an annual plan and schedule for, among other things, reducing the number and rates of accidents, injuries, and fatalities involving railroads.

Reports. Requires regular reporting from the Department of Transportation's Inspector General and the National Transportation Safety Board on the FRSA's progress in implementing statutory mandates and open safety recommendations.

Financing. Increases funding for the Federal rail safety program for fiscal years 2008 through 2011, as follows: $230 million for FY2008; $260 million for FY2009; $295 million for FY2010; and $335 million for FY2011. In addition, $18 million is authorized for the design, development, and construction of the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado.

WORKER AND PUBLIC SAFETY

Hours of Service Reform. Provides signal and train crews with additional rest; prohibits them from working in excess of 12 hours; extends hours-of-service standards to railroad contractors; limits limbo time; eliminates the use of camp cars; and requires railroads to develop fatigue management plans.

Training. Establish minimum training standards for railroad workers, and requires the certification of conductors and carmen.

Medical Attention. Prohibits railroads from denying, delaying, or interfering with the medical or first aid treatment of injured workers, and from disciplining those workers that request treatment. Also requires railroads to arrange for immediate transport of injured workers to the nearest hospital.

Emergency Escape Breathing Apparatus. Provides emergency breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of unintentional release.

Installation of Safety Technologies. Mandates implementation of positive train control by December 31, 2014, and authorizes the FRSA to establish a grant program to assist railroads in implementing this requirement. Also requires railroads to either install technologies in nonsignaled territories that alert train crews of misaligned switches or operate trains in such areas at speeds that will allow them to safely stop in advance of a misaligned switch.

Rail Passenger Disaster Family Assistance. Directs the NTSB to establish a program to assist victims and their families involved in a passenger rail accident, modeled after a similar aviation disaster program.

TRACK SAFETY

Internal Rail Defects. Requires railroads to conduct inspections to ensure that rail used to replace defective segments of existing rail is free from internal defects, and to perform integrity inspections to manage an annual service failure rate of less than 0.1 per track mile on high-risk corridors. Also encourages railroad use of advanced rail defect inspection equipment and similar technologies as part of a comprehensive rail inspection program.

Concrete Crossties. Directs the FRSA to develop and implement regulations for all classes of track for concrete rail ties.

Inspection Technologies. Directs the FRSA to purchase, with amounts appropriated, six Gage Restraint Measurement System vehicles and five track geometry vehicles to enable the deployment of one Gage Restraint Measurement System vehicle and one track geometry vehicle in each region.

GRADE CROSSING SAFETY

Toll Free Number to Report Grade Crossing Problems. Requires the railroads to establish and maintain a toll-free telephone number for reporting malfunctions of grade crossing signals, gates, and other devices and disabled vehicles blocking railroad tracks.

Sight Distance. Directs the railroads to remove overgrown vegetation at grade crossings, which can obstruct the view of approaching pedestrians and vehicles.

Accident and Incident Reporting. Requires the FRSA to conduct periodic audits of railroads to ensure they are reporting all accidents and incidents the National Accident Database.

National Crossing Inventory. Requires railroads to report current information, including information about warning devices and signage, on grade crossings to enable the FRSA to maintain an accurate inventory of such crossings.

State Action Plan. Requires the Secretary to identify on an annual basis the top 10 States that have had the most grade crossing collisions, and to work with them to develop a State Grade Crossing Action Plan that identifies specific solutions for improving safety at grade crossings.

Emergency Grade Crossing Improvements. Establishes a grant program to provide

emergency grade crossing safety improvements at locations where there has been a grade crossing collision involving a school bus or multiple injuries/fatalities.

ENFORCEMENT

Civil Penalties. Increases civil penalties for certain rail safety violations from $10,000 to $25,000. The minimum civil penalty remains $500. For grossly negligent violations or a pattern of repeated violations, the maximum civil penalty is increased from $20,000 under current law to not more than $100,000.

Criminal Penalties. Increases the maximum penalty for failing to me an accident or incident report from $500 to $2,500.

Enforcement Transparency. Requires the FRA to provide a monthly updated summary to the public of all railroad enforcement actions taken by the Secretary.

Safety Investigations. Makes it unlawful for any person to knowingly interfere with, obstruct, or hamper an investigation by the Secretary of Transportation or the National Transportation Safety Board.

Railroad Radio Monitoring. Authorizes the FRSA to intercept and record certain railroad radio communications for the purpose of correcting safety problems and mitigating the likelihood of accidents or incidents.

Inspector Staffing. Doubles the number of Federal rail safety inspectors by December 31, 2011.

OTHER

Tunnel Information. Requires railroads to maintain certain information related to structural inspections and maintenance activities for tunnels, and requires those railroads to provide periodic briefings to the government of the local jurisdictions in which the tunnels are located, including updates whenever a repair or rehabilitation projects alters the methods of ingress and egress into and out of the tunnels.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

We are here today to consider one of the most important pieces of legislation that we will undertake this year, as the chairman pointed out, the Federal Rail Safety Improvement Act of 2007.

As the chairman pointed out, there are still accidents that occur and there are still deaths that occur on rail, but to put that into perspective, in 2006, it was in fact the safest year ever in our Nation's railroad history.

Over the past 30 years, we have made tremendous progress in reducing the number of train accidents and deaths that occur around our rail yards and railroad lines. Let me give you some of those statistics.

In 1996, there were 33 railroad employees that were killed; in 2006, it's down to 16. Now, that's 16 too many, and we can continue to reduce that as we're attempting to do in this bill, but as you can see, there has been definite improvement.

Passenger trains, which were carrying, in 1996, 397 million people, in that year, there were 12 passengers killed. In 2006, there were 549 million passengers that were transported by train, and there were only two killed in 2006. Once again, a significant decrease. Any death is too many, but we're seeing positive results in the rail industry. In 1996, 488 people were killed at grade crossing accidents; and in 2006, that number, again, is down to 369.

While those numbers are high, this bill is going to address, as I will talk about here, how it's going to address those unsafe conditions and how we can improve making them safer for the traveling public and, of course, the rail industry.

One of the biggest issues we address in this bill is limbo time, the time that train crews must wait for pickup at the end of a run. Limbo time is very complicated. We went through some complicated negotiations, but in the end, limbo time will still exist. And I think it's important that people know that the limbo time that employees wait at the end of their run, they are being paid for limbo time, but it extends that waiting period and can result in crews being fatigued. So we phased that down in this bill. We phased down limbo time to 10 hours per month over a period of 3 years. Complete elimination of limbo time would have had some unintended consequences, like forcing train crew members to relocate their homes to new reporting points. The compromised language in this bill avoids disrupting the lives of rail workers and should permit railroad operations to continue smoothly and safely.

Another safety concern addressed in this bill is installation of positive train control, or PTC. The bill mandates that PTC be installed by the year 2014, but also provides up to 2 years of leeway in case a better or more effective system is developed.

Installation of PTC will likely cost about $3 billion, but the people that use the system will pay for that. That's not going to be passed on to the taxpayers, but the people that use the system and the rail industry will see some positive things happening in their operations to help them lower their costs. That's why I think it's important that we install an effective and reliable system, and this bill will ensure that.

I must admit that I think the bill still has some weaknesses, and we need to continue to improve in some critical areas. Grade crossing and trespassing fatalities, still the numbers are high. As I mentioned earlier, in 1996, there were 471 fatalities. That number went up, trespassers that died in 2006, to 517. And trespassers are people that are going onto rail properties illegally, they don't belong there, but those trespassing deaths are something we have to address.

Grade crossing fatalities. Again, we've seen them decrease, but we need to do more. I am grateful to Mr. GRAVES, who submitted an important amendment in the committee markup. The amendment is now part of the bill and authorizes up to $250,000 in emergency funding for a crossing which experiences a collision with a school bus or an accident where there is a fatality. Presently, if there is a fatality, that grade crossing just stays on the list, but with Mr. GRAVES' amendment, we're going to push it up until it's prioritized and make sure that crossing is dealt with in a timely manner.

I am also grateful to Mr. BROWN from South Carolina, who helped us create a provision fostering the use of advanced warning devices at railroad crossings.

In closing, I want to thank Chairman OBERSTAR and Chairwoman BROWN, the subcommittee Chair, for working with me and Mr. MICA in trying to make this bill a better bill. As I said, there are still some improvements that we would like to see, and we will continue to work through the process to make the bill a stronger bill.

I urge my colleagues to support H.R. 2095.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 5 minutes to the distinguished Chair of our Rail Subcommittee, Ms. BROWN, the gentlelady from Florida.

Ms. CORRINE BROWN of Florida. First of all, let me just thank Chairman OBERSTAR for his leadership on Transportation. Truly, Mr. OBERSTAR is a transportation guru. And his motto, ''Transportation is the committee that put America to work,'' I want to thank you for ''let's put America to work safely.'' I also want to thank Mr. MICA and Mr. SHUSTER for their hard work on this legislation.

Developing this rail safety legislation was the number one priority for the Railroad Subcommittee. Congress last passed legislation to reauthorize the Federal Railroad Administration in 1994. That authorization expired in 1998. Since that time, the railroad industry has changed greatly. Economic growth and increase in international trade has led to record traffic levels. At the same time, Amtrak and the commuter railroads, which often operate freight rail lines, are moving more passengers, which means that there's lots of pressure on the rail system, and this has a major impact on work and public safety.

Since the beginning of the 110th Congress, the subcommittee has held six hearings on rail safety, examined fatigue, the role of human factors in rail accidents, and the reauthorization of the Federal Rail Safety program. We also held two hearings in Texas and California.

In addition to the subcommittee's hearings, we met with labor, the railroads, government agencies, and other interested parties in crafting this legislation. Through some tough negotiations, we were able to develop a bipartisan agreement on the most difficult issues, and I believe we have a really good bill. Let me highlight a number of provisions in the bill.

H.R. 2095 reauthorized the FRA as the Federal Railroad Safety Administration and ensures that it will consider and assign maintenance and safety as their highest priority.

The bill seeks to help prevent accidents caused by human factors, which accounts for about 40 percent of all rail accidents, by strengthening the hours

of service law, increasing worker training and qualifications, and implementing advanced safety technologies.

This bill improves safety at our Nation's grade crossings. It requires railroads to establish, maintain, and post a toll-free number at all grade crossings to receive calls regarding malfunctions of signals, crossing gates, or disabled vehicles blocking crossings.

H.R. 2095 directs the Secretary to prescribe regulations regarding railroads to remove all overgrown vegetation from their right-of-way to improve the view of pedestrians and motor vehicle operators. H.R. 2095 also requires railroads to develop and submit to the Secretary a plan for implementing a positive train control system by December 31, 2014.

Further, it requires the Secretary of Transportation to develop a long-term strategy for improving railroad safety, which must include a plan and schedule for reducing the number and rates of accidents, injuries and fatalities involving railroads.

Simply put, this legislation is going to save lives. I look forward to going to conference and putting a bill on the President's desk for his signature.

I want to again thank Chairman OBERSTAR for his leadership on the committee. And I would encourage all of my colleagues to support this legislation.

Mr. SHUSTER. I yield as much time as he may consume to the distinguished ranking member of the Transportation Committee.

Mr. MICA. Thank you, Mr. SHUSTER, for yielding me time, and also for managing the time today on this bill. Mr. SHUSTER is doing an outstanding job in leading the Republican side of the Rail Subcommittee, and I appreciate his fine efforts. Also, the great efforts of my colleague from Florida (Ms. CORRINE BROWN), who chairs the subcommittee. And indeed, we are fortunate to have someone with Mr. OBERSTAR's leadership at our helm, chairing the committee after a long wait of some 32 years. I know this has been one of his priorities, rail safety, and I'm pleased that he has an opportunity to bring his bill to the floor today.

Now, of course, ladies and gentlemen of the House, my colleagues, we all want safe rail, we want safe infrastructure in our Nation, and it is important that we do everything possible to move safety forward and to make certain that freight rail, passenger rail, that our crossings, that those that work and are employed in this great industry are as safe as possible. And I think that that was the original intent.

Now, let me say that I have an agreement with Mr. OBERSTAR, Ms. BROWN and Mr. SHUSTER to support this bill on passage, and I intend to put my card in the reader and I will vote ''yes.'' That doesn't prohibit me from talking a little bit about the bill and the genesis of this bill.

□ 1615

Now, the intent is one thing about this legislation, and I think, again, it was safety and well-intended. But unfortunately, I think we started out with a bad bill.

The other side won the election, and there were some presents to be presented to labor. This doesn't have a red bow on it. But this started out as something I think that was sort of a gift to labor from the election. It is nice to approach legislation from that standpoint. But I think we have been able to take what I consider a very bad bill, that its intention was to actually codify some of the labor work rules relating to our rail industry. We have taken that bad legislation, and we have made it a little bit better. I think we still have a ways to go.

There are some good things in this. Mr. OBERSTAR pointed out that we did take the number one recommendation of the NTSB, the National Transportation Safety Board. That is the board that does investigate accidents. It is important that we take from them the best information they have possible and then translate that into legislative action so that accident doesn't occur. So, one, we have taken their recommendation, a positive train separation, and it is part of this bill. I am complimentary of that.

I think Mr. GRAVES, the gentleman from Missouri, a member of our committee and outstanding subcommittee Chair, I am sorry, ranking member, of the Public Buildings Subcommittee, his crossing prioritization for changing out dangerous crossings is an excellent provision. I think also that there is a good provision in this for acquiring some of the technical equipment. You have to understand, Mr. SHUSTER said there are very few accidents. In fact, the latest statistics that we have, there were 16 employee deaths in 2006. Only six of the deaths involved train accidents. So it is a very low number. That is compared to 25 of 33 employee deaths in 1996. So there is substantial improvement in that regard.

But if you look at some of the factors, and we have the factors that cause train accidents, you find the human factor is number one. It accounts for some 35, almost 36 percent of train accidents. This bill doesn't do enough, really, to deal with the human factors, in my opinion. Some of that involves training and some other things that we should be addressing.

The second is track defects. I had a chance, when I was going to college, I worked 16 hours a day, 7 days a week on the rail to finance my college education, part of it, and I got to see some of what happens on the railroads firsthand. Track defects today are very difficult to detect just by some of the measures that we have, for example, in this bill.

This bill mandates that we have almost a doubling of track inspectors. Now, that is a nice gift also to the unions. We will get a few more union members. But is that what we need when the way to really detect track defects is with the latest technology and equipment? I did say the bill has authorization for acquisition of, I think, six additional track testing pieces of equipment. But if we really want to do that, we should be spending not just more money on bodies and inspectors and routine inspections, increasing those, kind of makework; we should be, first of all, making certain that we have a risk-based inspection system.

When I become chairman of Aviation, that was one of the things we did in Aviation, and I gave my blessings to, back in 1991. We have enjoyed the safest period of aviation safety, passenger aircraft safety, in the history of our Nation. I believe that is because it is a risk-based system. Rather than going out on a Monday, we are going to inspect this piece of equipment and then we schedule that for the next month on Monday and we go back and we do it and we add inspectors, we look at where the risks are and that is where we put our resources. It is not always how much we spend; it is how we spend it and how we apply those dollars.

Again, I have some questions about the approach in this bill. We do have an agreement. I am pleased to support this. My hope is that we can take this bill as we have done working with Mr. OBERSTAR, Ms. BROWN, Mr. SHUSTER, and we can craft it into a better piece of legislation as it goes hopefully through conference, and I will support it.

In closing, there are some questions about the amendments. I will support the manager's amendment which I agreed to. The other three Members have asked me, and I say, you pick and choose. Mr. OBERSTAR and I did not make the decision on the three other amendments the Rules Committee brought forth, and you will have to assess them as to their own merits.

It is important that we take this legislation up. It is important that we move together in a bipartisan fashion. I have a little bit different set of priorities, again, on some of the issues that we have addressed in the legislation. But I have a fond hope that through a bipartisan future effort we can approve this legislation and continue to make certain that our rail employees, our rail passengers and those that cross the railroad tracks in our communities are safe.

Mr. OBERSTAR. Mr. Chairman, I yield myself 15 seconds.

I thank the gentleman for his comments, for his support of the bill. I am delighted to learn that the gentleman spent so much time on the railroad going through college. We share that. I worked on the rail during my years in the iron ore mines. I worked those double-aught shifts, as well, and I know how hard hours of service are and how important it is for us to put those limits on.

I now yield 3 minutes to the distinguished gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. I thank the gentleman from Minnesota, and I thank

you for your leadership on this very important bill, and Chairwoman BROWN, as well, for your exceptional leadership.

Mr. Chairman, I rise today in support of H.R. 2095, the Federal Railroad Safety Improvement Act of 2007, and urge swift passage of the measure. I believe that this bill addresses many important issues that have been ignored for far too long. I am grateful to the chairwoman, as well, for the inclusion of the language that authorizes funding for the tunnel to be built at the Transportation Technology Center, an internationally recognized train testing facility that she was able to tour last year. It is located in Pueblo, Colorado. TTC is used by the Federal Railroad Administration to conduct significant research and development on rail safety.

TTC offers 48 miles of railroad track to test rolling stock, track components, signal and safety devices, track structure and vehicle performance. It also has several one-of-a-kind laboratory test facilities used for evaluating vehicle dynamics, structural characteristics and advanced braking systems. TTC already operates as a world-class research and test center offering a wide range of capabilities in railroad and transit research.

For the past 2 years, we have been working to get funding for a facility for an underground rail station and tunnel at TTC. The tunnel will add to the center's capabilities and serve as an invaluable resource as we strive to ensure that our Nation's railroads are safe and secure against possible terror attacks. Recent events have sadly demonstrated the vulnerability of underground mass transit systems. Safety experts have identified a number of technology and training needs to prevent attacks on tunnels and lessen the consequences of such attacks. These needs include detection systems, dispersal control and decontamination techniques.

The distinctive, remote environment of TTC allows such testing and training activities to be carried out at a secure location, without disruption to the flow of passenger and rail traffic in and around urban areas. I applaud Chairman OBERSTAR, Chairwoman BROWN and Mr. SHUSTER for recognizing the important role that such a tunnel will play in rail safety. I believe H.R. 2095 ensures that we remain the world's safest rail system, and I urge my colleagues to support this bill.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. I thank the ranking member for yielding his time. I certainly appreciate the good work he has done with Ranking Member MICA on this important rail safety bill. Of course, Chairwoman BROWN and Chairman OBERSTAR have been exemplary in working in a bipartisan way to bring this product to the House floor today, and I certainly hope all Members will find a way to support this legislation.

Mr. Chairman, I rise today to speak to only one element of the bill that I had particular interest in, and that is with regard to a new reporting requirement for the rails to disclose on an annual basis to the Surface Transportation Board the amount of money spent out of their capital for improvements to rail, track, locomotives and other related maintenance which will give us, I believe for the first time, critical metrics to analyze what they are doing to preserve the safety of our rail system.

Of course, safety is uppermost in our mind today, but our rail system is also the heart of our economy. The ability to move goods and services and people across this great Nation over our rail system is absolutely essential going forward. We must judge based on their actual expenditure whether the rails themselves are engaging in appropriate conduct in spending the necessary funds to make this system safe and sound.

I have great concerns that in periods of record profitability, Wall Street analysts have identified these systems as being very undervalued. In fact, there are indications that some hedge fund managers are acquiring large blocks of railroad stock and the consequential reaction has been by the rails to repurchase their own stock and perhaps divert needed resources from necessary and very important infrastructure improvements.

I commend the committee leadership for the inclusion of this important provision, as I think going forward it will enable this Congress to take actions that are necessary and proper to preserve this important system.

Mr. OBERSTAR. I would like to inquire of the time remaining on both sides.

The CHAIRMAN. The gentleman from Minnesota has 12½ minutes remaining. The gentleman from Pennsylvania has 14½ minutes remaining.

Mr. OBERSTAR. I yield 2 minutes to the distinguished gentlewoman from California (Mrs. NAPOLITANO).

Mrs. NAPOLITANO. Mr. Chairman, I rise in strong support of H.R. 2095. I congratulate all my colleagues for this strong bipartisan railroad safety bill, and I associate myself with the remarks of the gentleman who just spoke.

It is of utmost importance to my district because over 160 trains travel through my district daily carrying over 14,000 containers, many containing hazardous material, carrying $400 billion worth of trade, most of it for the eastern part of the United States. It is expected to triple by the year 2020.

We have experienced many derailments in my area. That has caused great distress not only to my families, to the businesses, the damage, the economic impact it has had, the threat to the public safety, and the anxiety caused along that railroad corridor.

This Railroad Safety Improvement Act helps prevent future derailments by improving track safety, improving grade crossing safety, improving whistleblower protections, addressing concerns over railroad fatigue, and ensures enforcement by clarifying the U.S. Attorney General's authority to bring civil action against the railroads, increasing penalties, increasing reporting of enforcement actions, and many other areas that are very, very important.

This bill includes two of my amendments to section 605, creating strict training standards for railroad inspectors, tough training for all rail employees who expressed to us their lack of training curriculum and additional training requirements for railroad inspectors who have expressed that they need that training.

My amendment creates strong training, testing and skills evaluation measures, ensures that the train inspectors are able to address critical safety defects that contribute to derailments and accidents in a timely basis. I couldn't agree more with the gentleman. We need to look at new technology that is going to help us get there. But we also need the support of the railroads.

My second amendment in section 407 authorizes $1.5 million for operation life safety for a total of $6 million. I certainly want to show that we all cooperate in this and look forward to having this vote pass with great success.

Mr. SHUSTER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. LATOURETTE), the distinguished former chairman of the Rail Subcommittee and one of America's experts in the rail industry.

Mr. LATOURETTE. I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of H.R. 2095, the Federal Railroad Safety Improvement Act of 2007. A number of the speakers who will speak on this bill today, when the bill was first introduced I had some difficulty with some of the provisions, but I want to thank Chairman OBERSTAR, Chairwoman BROWN, Ranking Member MICA and Ranking Member SHUSTER for continuing the great hallmark of the Transportation and Infrastructure Committee and working through those issues, be it limbo time, be it Federal preemption, be it a variety of other issues, and reaching a product that was brought to the floor today that I think that most, if not all of us, will be supportive of, as well.

□ 1630

Just a moment about Chairman OBERSTAR. When the majority changed, there's more Democrats on the committee than there are Republicans. They could write their own bill. But that hasn't been the way this committee has ever worked, and that isn't the way Chairman OBERSTAR is running the committee either. He reached out

to our side of the aisle to talk about these issues, and the result is that he has brought to the floor a piece of legislation that will overwhelmingly pass sometime later this evening.

Mr. Chairman, this important legislation will bring industry and government a long way towards the shared goal of improving rail safety. Although the number of train accidents decreased last year by almost 500, it is unclear whether that 1-year progress will continue. We are and we should always be looking for new ways to improve safety, not only for railroad employees, but for the surrounding communities as well.

Despite everyone's best intentions, disasters will strike. As the current Speaker pro tempore is well aware, in January of 2002, a Canadian Pacific train derailed 31 of its 112 cars in Minot, North Dakota. Five tank cars carrying anhydrous ammonia, a liquefied compressed gas, catastrophically ruptured, and a toxic vapor plume covered the derailment site and surrounding area. More than 11,000 people were impacted, and there was one fatality. More than 300 people were injured, including two members of the crew. Damages in that event exceeded $2 million, and more than $8 million has been spent for environmental cleanup efforts.

Mr. Chairman, just last week in Painesville, Ohio, about a mile from my district office, a CSX train derailed 30 of its 112 cars. A car containing ethanol exploded and fire engulfed several cars containing grain and ethanol. It burned for a number of days. More than 1,000 residents were evacuated, schools were disrupted, and roads, highways and businesses closed. Fortunately, in our event there were no injuries, but it was a tremendous disruption in the lives of many people. The six law enforcement agencies and 24 local fire departments that responded put in an untold number of overtime hours. Officials are only now evaluating the environmental fallout as they search for a cause.

To its credit, CSX Rail has stepped up following this incident. They are paying for hotel rooms of displaced persons, assisting in a variety of manners with the recovery and cleanup efforts, and have shown that they are willing to take responsibility when something goes awry. Our local responders and CSX worked together and provided a seamless response in Painesville.

Mr. Chairman, I am also happy to announce that following my conversation last Friday with Tony Ingram, the chief operating officer of CSX, the company has offered to work to cover the costs incurred by our local first responders. I greatly appreciate that and know that this is going to be a huge relief to cash-strapped communities in my district whose budget cannot handle the overtime.

While CSX is doing its best to minimize the damage this derailment has caused, it goes to show that when accidents do happen, this disruption is enormous. We must do everything that we can to prevent these types of incidents from occurring. The bill that Mr. OBERSTAR has brought forward today before the Congress takes a number of steps in the right direction. I urge my colleagues to support the bill.

Mr. OBERSTAR. Mr. Chairman, I yield myself 5 seconds.

Mr. Chairman, I express my great sympathy to the gentleman from Ohio on the tragedy, and for his description of it, and also my appreciation for his kind words about our work on the committee.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. LIPINSKI), whose district includes the greatest confluence of rail in the whole country.

Mr. LIPINSKI. Mr. Chairman, I thank the chairman of the committee for yielding and for all his tireless efforts on behalf of rail safety.

Mr. Chairman, today I rise in strong support of the Federal Railroad Safety Improvement Act. As the chairman says, I represent part of Chicago, which is the rail hub of the Nation. I understand just how important railroad traffic is, railroads are to this country, both passenger and freight. In all transportation, safety is key.

This bill makes crucial improvements in safety for rail employees, passengers and all Americans who live, work, travel along rail lines. I would like to commend Chairman OBERSTAR, Subcommittee Chairwoman BROWN, Ranking Member SHUSTER, and Ranking Member MICA for their work on this bill.

Mr. Chairman, among the other important improvements that come in this bill, H.R. 2095 works to strengthen the integrity of our Nation's rail system, encourages the implementation of new technologies, such as positive train control systems, known as PTC. I am especially pleased that, at my request, the committee included language in the bill that provides Federal funding to expedite PTC installation. PTC systems can drastically reduce collisions, derailments and other accidents, while at the same time improving efficiency. It's clearly a much-needed advance.

I also want to speak right now in strong support of the Napolitano amendment, which broadly ensures Mexican trains entering the U.S. continue to receive proper brake, mechanical and hazardous material inspections by highly skilled American personnel.

Mr. Chairman, this bill is essential for continued safety of our railways. I urge adoption of the Napolitano amendment and passage of the underlying bill.

Mr. SHUSTER. Mr. Chairman, at this time I have no further speakers, so I will continue to reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, at this time I yield 2 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the chairman, not only for yielding, but his extraordinarily hard work in preparing this bill, along with my good friend, the gentlewoman from Florida, who together have crafted a bill, working with Mr. MICA and Mr. SHUSTER, so that what we have before us is a classic bipartisan bill and one that is urgently needed.

This is a public transportation bill, and it looks to a part of our economy upon which we are disproportionately dependent. It also happens to be a mode of transportation that is relatively clean. I got to thinking about the importance of this bill, Mr. Chairman, and I could only think about where we have spent much more time, and that is on air travel. Yet, we have limited the time that pilots, and, for that matter, other air personnel can be on duty and certainly in the air.

Rail employees for decades have simply absorbed the burden of extraordinary numbers of hours away from home, on duty. How have we escaped some catastrophic accidents that would linger in our minds? I think it is only because of the courage and the perseverance of rail personnel, who obviously have worked through fatigue and who have simply taken on their shoulders most of the hardships. I don't even want to think about what the cost of family life has been with regards to children, the cost of being away when there has been an emergency or death in the family or someone is lingering. I just don't want to think about that, because when I do, I am reminded about how late this bill is and how urgent it is.

So I want to thank the chairman, and I want to commend the courage of rail workers, and especially I want to do so as a member of the Homeland Security Committee, which is deeply affected as well.

Mr. SHUSTER. Mr. Chairman, I reserve my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Chairman, I would like to thank Chairman OBERSTAR, Ranking Member MICA, Chairwoman BROWN and Ranking Member SHUSTER for their work on this bill.

My district is located in a densely populated area on Long Island, New York. We have the comfort and convenience of rail transportation to New York City by the Long Island Railroad. The Long Island Railroad moves safely through the Fourth Congressional District with the use of locomotive horns at train crossings.

Although the use of horns at train crossings ensures the safety of the surrounding communities, horn noise also has a substantial impact on the quality of life of individuals living in those communities.

For example, in Cedarhurst, New York, there are five train crossings

within a half mile. Because the crossings are so close together, the result is a continuous horn blast as the train moves through the community. The horn noise can be so loud and last so long that individuals must stop any ongoing conversations for several minutes. This happens most often during rush hour, but continues approximately 50 times throughout the day. Individuals find it difficult to sleep through the horn noise, even with the use of earplugs, and are awakened early in the morning and late in the evening. Also, because my district is so densely populated, the horn noise bounces off many of the buildings nearest the railroad and seems to intensify as it moves through the community.

I support the Federal Railroad Administration and its primary goal of ensuring the safety of railroads and trains across the country and in the Fourth Congressional District of New York. I do not and will not support any measure that will reduce the safety of railroads and trains coming through my community.

With that in mind, I also understand the effect of locomotive noise that does interfere with the quality of life. I have received countless letters and e-mails from my constituents expressing how noise affects their daily lives.

Due to the impact that locomotive horn noise has on the communities in my district, I support the language in the manager's amendment that allows the Secretary to consider the impact of horn noise on the local community and the unique characteristics of the community that it is serving in considering applications for waivers or exemptions.

I want to thank Chairman OBERSTAR for working with me on this issue and allowing me the time to express my support for his amendment and the bill.

Mr. SHUSTER. Mr. Chairman, I continue to reserve my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Chairman, let me take this opportunity first of all to rise and indicate that I am here on behalf of the Napolitano amendment. The amendment would prohibit Mexican companies and inspectors from performing mechanical inspections of trains unless they meet specific U.S. standards, including rigorous training of inspectors.

I think that is essential. We have some 10,000 trains that cross the U.S.-Mexican border through my district alone. We had over four derailments in 2004. We think this is an amendment that is important and is critical in order for us to continue to have safety in those trains.

So I want to encourage the passage of the amendment by Congresswoman GRACE NAPOLITANO that will allow an opportunity for those inspectors to be well trained and to make sure that they specify U.S. standards before that occurs.

As I indicated earlier, I represent the longest stretch of the Mexican border of any Member of Congress, and I think that this is an area of significance and importance.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, through this process, we have had some significant differences, but we were able to work them out and produce a product that has bipartisan support in the committee. For me, it was a great experience working with Chairwoman BROWN, but especially working with Chairman OBERSTAR. At times it was quite daunting to go into negotiations with somebody who not only knows the current issues of the rail history, but knows the vast history of the rail industry. So I made it through the process and learned quite a bit, and I appreciate the chairman and chairwoman for working with me, and also, of course, Mr. MICA for giving me the responsibility on this piece of legislation.

Mr. Chairman, I urge my colleagues to support H.R. 2095, the Federal Rail Safety Improvement Act of 2007.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I again want to express my great appreciation to Ms. BROWN for years of advocacy for rail issues and for her championing of the rail safety matters, and to thank the distinguished gentleman from Pennsylvania, who has devoted a great deal of energy and time and effort to rail from his first day on the committee, asking the committee to hold a hearing in 2001 in his district on rail maintenance yard issues and continuation of rail service. It turned out to be a very enlightening hearing.

He has remained engaged in the issues. As the gentleman said a moment ago, we did not just throw issues on the table; we rather sat around the table after the hearings and discussed in detail repeatedly subject matters, made concessions on each side, adjustments, understanding each other's concerns, and reached not the ideal of each side, but ideal in the best public interest. The result is, I believe, a bill that substantially advances the cause of rail safety.

□ 1645

I must say in passing that it diminishes the substance of the bill to say that it is, as the previous speaker did, a gift to rail labor. This is a gift to all Americans, to all residents of communities that are home to railroads, to rail makeup yards through which the goods of America move, through which the coal and the grain and the containers move. It is safety for them. It is safety for the workers on the railroads. It is in the best interest of all America. I urge passage of the bill.

Ms. GIFFORDS. Mr. Chairman, I am pleased to vote today in support of H.R. 2095, the Federal Railroad Safety Improvement Act of 2007.

This legislation includes important safety improvements that will positively impact railroad workers and passengers.

H.R. 2095 recognizes that railroad workers have tremendous responsibilities. Americans rely on them to transport commercial goods that are critical to our economy and to keep passengers and the public safe. The bill promotes a safer and healthier work environment and requires railroad companies to devise and implement fatigue management plans.

Additionally, this bill will ensure that railroad employees who handle hazardous waste moving through our communities are properly rested and alert.

I am pleased that concerns about the safety of locomotive engineers are reflected in H.R. 2095 which calls for a formal study of locomotive cab design. This study will take into account the health effects of locomotive seats, diesel-fume inhalation for lead and trailing locomotives, and other cab working conditions.

H.R 2095 also includes protections for whistle-blowers who report unsafe conditions and personal injuries.

I thank Chairman OBERSTAR for bringing this legislation forward and ask my colleagues to join rite in voting for its passage.

Mr. OBERSTAR. I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

H.R. 2095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Railroad Safety Improvement Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

For purposes of this Act, the terms ''railroad'' and ''railroad carrier'' have the meaning given those terms in section 20102 of title 49, United States Code.

TITLE I—FEDERAL RAILROAD SAFETY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF FEDERAL RAILROAD SAFETY ADMINISTRATION.

(a) AMENDMENT.—Section 103 of title 49, United States Code, is amended to read as follows:

''§ 103. Federal Railroad Safety Administration

''(a) IN GENERAL.—The Federal Railroad Safety Administration (in this section referred to as the 'Administration') shall be an administration in the Department of Transportation. To carry out all railroad safety laws of the United States, the Administration shall be divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation shall be responsible for enforcing those laws and for ensuring that those laws are uniformly administered and enforced among the safety offices.

''(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in railroad transportation.

''(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

''(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

''(e) CHIEF SAFETY OFFICER.—The Administration shall have an Associate Administrator for Railroad Safety appointed in the competitive service by the Secretary. The Associate Administrator shall be the Chief Safety Officer of the Administration. The Associate Administrator shall carry out the duties and powers prescribed by the Administrator.

''(f) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

''(1) duties and powers related to railroad safety vested in the Secretary by section 20134(c) and chapters 203 through 211 of this title, and by chapter 213 of this title for carrying out chapters 203 through 211; and

''(2) other duties and powers prescribed by the Secretary.

''(g) LIMITATION.—A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another Federal Government entity only when specifically provided by law. A decision of the Administrator in carrying out the duties or powers of the Administration and involving notice and hearing required by law is administratively final.

''(h) AUTHORITIES.—Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions at the Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.''.

(b) REFERENCES AND CONFORMING AMENDMENTS.—(1) All references in Federal law to the Federal Railroad Administration shall be deemed to be references to the Federal Railroad Safety Administration.

(2) The item relating to section 103 in the table of sections of chapter 1 of title 49, United States Code, is amended to read as follows:

''103. Federal Railroad Safety Administration.''.

SEC. 102. RAILROAD SAFETY STRATEGY.

(a) SAFETY GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary of Transportation shall develop a long-term strategy for improving railroad safety. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of accidents, injuries, and fatalities involving railroads.

(2) Improving the consistency and effectiveness of enforcement and compliance programs.

(3) Identifying and targeting enforcement at, and safety improvements to, high-risk highway-rail grade crossings.

(4) Improving research efforts to enhance and promote railroad safety and performance.

(b) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each activity. Such estimates shall also include the staff skills and training needed for timely and effective accomplishment of each goal.

(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the strategy and annual plan at the same time as the President's budget submission.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than semiannually, the Secretary of Transportation and the Administrator of the Federal Railroad Safety Administration shall assess the progress of the Administration toward achieving the strategic goals described in subsection (a). The Secretary and the Administrator shall convey their assessment to the employees of the Federal Railroad Safety Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

(2) REPORT TO CONGRESS.—The Secretary shall transmit a report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the performance of the Federal Railroad Safety Administration relative to the goals of the railroad safety strategy and annual plans under subsection (a).

SEC. 103. REPORTS.

(a) REPORTS BY THE INSPECTOR GENERAL.—Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Federal Railroad Safety Administration a report containing the following:

(1) A list of each statutory mandate regarding railroad safety that has not been implemented.

(2) A list of each open safety recommendation made by the National Transportation Safety Board or the Inspector General regarding railroad safety.

(b) REPORTS BY THE SECRETARY.—

(1) STATUTORY MANDATES.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

(2) NTSB AND INSPECTOR GENERAL RECOMMENDATIONS.—Not later than January 1st of each year, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2), a copy of the Department of Transportation response to each such recommendation, and a progress report on implementing each such recommendation.

SEC. 104. RULEMAKING PROCESS.

(a) AMENDMENT.—Subchapter I of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following new section:

''§ 20116. Rulemaking process

''No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless that reference is to a particular code, rule, standard, requirement, or practice adopted before the date on which the rule is issued by the Secretary, and unless the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter I of chapter 201 of title 49, United States Code, is amended by adding after the item relating to section 20115 the following new item:

''20116. Rulemaking process.''.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Transportation to carry out this part and to carry out responsibilities under chapter 51 as delegated or authorized by the Secretary—

''(A) $230,000,000 for fiscal year 2008;

''(B) $260,000,000 for fiscal year 2009;

''(C) $295,000,000 for fiscal year 2010; and

''(D) $335,000,000 for fiscal year 2011.

''(2) With amounts appropriated pursuant to paragraph (1), the Secretary shall purchase 6 Gage Restraint Measurement System vehicles and 5 track geometry vehicles to enable the deployment of 1 Gage Restraint Measurement System vehicle and 1 track geometry vehicle in each region.

''(3) There are authorized to be appropriated to the Secretary $18,000,000 for the period encompassing fiscal years 2008 through 2011 to design, develop, and construct the Facility for Underground Rail Station and Tunnel at the Transportation Technology Center in Pueblo, Colorado. The facility shall be used to test and evaluate the vulnerabilities of above-ground and underground rail tunnels to prevent accidents and incidents in such tunnels, to mitigate and remediate the consequences of any such accidents or incidents, and to provide a realistic scenario for training emergency responders.

''(4) Such sums as may be necessary from the amount appropriated pursuant to paragraph (1) for each of the fiscal years 2008 through 2011 shall be made available to the Secretary for personnel in regional offices and in Washington, D.C., whose duties primarily involve rail security.''.

TITLE II—EMPLOYEE FATIGUE

SEC. 201. HOURS OF SERVICE REFORM.

(a) DEFINITIONS.—Section 21101(4) of title 49, United States Code, is amended by striking ''employed by a railroad carrier''.

(b) LIMITATION ON DUTY HOURS OF SIGNAL EMPLOYEES.—Section 21104 of title 49, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee, and a railroad contractor and its officers and agents may not require or allow a signal employee, to remain or go on duty—

''(1) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours;

''(2) for a period in excess of 12 consecutive hours; or

''(3) unless that employee has had at least one period of at least 24 consecutive hours off duty in the past 7 consecutive days.

The Secretary may waive paragraph (3) if a collective bargaining agreement provides a different arrangement and such arrangement provides an equivalent level of safety.'';

(2) in subsection (b)(3) by striking '', except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty'';

(3) in subsection (c)—

(A) by inserting ''for not more than 3 days during a period of 7 consecutive days'' after ''24 consecutive hours''; and

(B) by adding at the end the following: ''A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.'';

(4) by adding at the end the following new subsections:

''(d) COMMUNICATION DURING TIME OFF DUTY.—During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier, and its managers, supervisors, officers, and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation posing potential risks to the employee's safety or health.

''(e) EXCLUSIVITY.—The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours, or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal Railroad Safety Administration.''.

(c) LIMITATION ON DUTY HOURS OF TRAIN EMPLOYEES.—Section 21103 of title 49, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

''(1) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours;

''(2) for a period in excess of 12 consecutive hours; or

''(3) unless that employee has had at least one period of at least 24 consecutive hours off duty in the past 7 consecutive days.

The Secretary may waive paragraph (3) if a collective bargaining agreement provides a different arrangement and such arrangement provides an equivalent level of safety.'';

(2) by amending subsection (b)(4) to read as follows:

''(4)(A)(i) Except as provided in clauses (ii) and (iii), time spent in deadhead transportation to a duty assignment, time spent waiting for deadhead transportation, and time spent in deadhead transportation from a duty assignment to a place of final release is time on duty.

''(ii) Time spent waiting for deadhead transportation and time spent in deadhead transportation from a duty assignment to a place of final release is neither time on duty nor time off duty in situations involving delays in the operations of the railroad carrier, when the delays were caused by any of the following:

''(I) A casualty.

''(II) An accident.

''(III) A track obstruction.

''(IV) An act of God.

''(V) A weather event causing a delay.

''(VI) A snowstorm.

''(VII) A landslide.

''(VIII) A track or bridge washout.

''(IX) A derailment.

''(X) A major equipment failure which prevents a train from advancing.

''(XI) Other delay from a cause unknown or unforeseeable to a railroad carrier and its officers and agents in charge of the employee when the employee left a designated terminal.

''(iii) In addition to any time qualifying as neither on duty nor off duty under clause (ii), at the election of the railroad carrier, time spent waiting for deadhead transportation and time spent in deadhead transportation to the place of final release may be treated as neither time on duty nor time off duty, subject to the following limitations:

''(I) Not more than 40 hours a month may be elected by the railroad carrier, for an employee, during the period from the date of enactment of the Federal Railroad Safety Improvement Act of 2007 to one year after such date of enactment.

''(II) Not more than 30 hours a month may be elected by the railroad carrier, for an employee, during the period beginning one year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and ending two years after such date of enactment.

''(III) Not more than 10 hours a month may be elected by the railroad carrier, for an employee, during the period beginning two years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007.

''(B) Each railroad carrier shall report to the Secretary of Transportation, in accordance with procedures contained in 49 CFR 228.19, each instance within 30 days after the calendar month in which the instance occurs that a member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, exceeds 12 consecutive hours, including—

''(i) time on duty; and

''(ii) time spent waiting for deadhead transportation and the time spent in deadhead transportation from a duty assignment to the place of final release, that is not time on duty.

''(C) If—

''(i) the time spent waiting for deadhead transportation, and the time spent in deadhead transportation from a duty assignment to the place of final release, that is not time on duty; plus

''(ii) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the train employee with additional time off duty equal to the number of hours that such sum exceeds 12 hours.''; and

(3) by adding at the end the following new subsection:

''(d) COMMUNICATION DURING TIME OFF DUTY.—During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7), a railroad carrier, and its managers, supervisors, officers, and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation posing potential risks to the employee's safety or health.''.

SEC. 202. EMPLOYEE SLEEPING QUARTERS.

Section 21106 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''A railroad carrier''; and

(2) by adding at the end the following new subsection:

''(b) CAMP CARS.—Effective 12 months after the date of enactment of this subsection, a railroad carrier and its officers and agents may not provide sleeping quarters through the use of camp cars, as defined in Appendix C to part 228 of title 49 of the Code of Federal Regulations, for employees and any individuals employed to maintain the right of way of a railroad carrier.''.

SEC. 203. FATIGUE MANAGEMENT PLANS.

(a) AMENDMENT.—Chapter 211 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 21109. Fatigue management plans

''(a) PLAN SUBMISSION.—

''(1) REQUIREMENT.—Each railroad carrier shall submit to the Secretary of Transportation, and update at least once every 2 years, a fatigue management plan that is designed to reduce the fatigue experienced by railroad employees and to reduce the likelihood of accidents and injuries caused by fatigue. The plan shall address the safety effects of fatigue on all employees performing safety sensitive functions, including employees not covered by this chapter. The plan shall be submitted not later than 1 year after the date of the enactment of this section, or not later than 45 days prior to commencing operations, whichever is later.

''(2) CONTENTS OF PLAN.—The fatigue management plan shall—

''(A) identify and prioritize all situations that pose a risk for safety that may be affected by fatigue;

''(B) include the railroad carrier's—

''(i) rationale for including and not including each element described in subsection (b)(2) in the plan;

''(ii) analysis supporting each element included in the plan; and

''(iii) explanations for how each element in the plan will reduce the risk associated with fatigue;

''(C) describe how every condition on the railroad carrier's property, and every type of employee, that is likely to be affected by fatigue is addressed in the plan; and

''(D) include the name, title, address, and telephone number of the primary person to be contacted with regard to review of the plan.

''(3) APPROVAL.—(A) The Secretary shall review each proposed plan and approve or disapprove such plan based on whether the requirements of this section are sufficiently and appropriately addressed and the proposals are adequately justified in the plan.

''(B) If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific points in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. If a railroad carrier does not submit a plan (or, when directed by the Secretary, an amended plan), or if a railroad carrier's amended plan is not approved by the Secretary, the Secretary shall prescribe a fatigue management plan for the railroad carrier.

''(4) EMPLOYEE PARTICIPATION.—(A) Each affected railroad carrier shall consult with, and employ good faith and use its best efforts to reach agreement by consensus with, all of its directly affected employee groups on the contents of the fatigue management plan, and, except as provided in subparagraph (C), shall jointly with such groups submit the plan to the Secretary.

''(B) In the event that labor organizations represent classes or crafts of directly affected employees of the railroad carrier, the railroad carrier shall consult with these organizations in drafting the plan. The Secretary may provide technical assistance and guidance to such parties in the drafting of the plan.

''(C) If the railroad carrier and its directly affected employees (including any labor organization representing a class or craft of directly affected employees of the railroad carrier) cannot reach consensus on the proposed contents of the plan, then—

''(i) the railroad carrier shall file the plan with the Secretary; and

''(ii) directly affected employees and labor organizations representing a class or craft of directly affected employees may, at their option, file a statement with the Secretary explaining their views on the plan on which consensus was not reached.

''(b) ELEMENTS OF THE FATIGUE MANAGEMENT PLAN.—

''(1) CONSIDERATION OF VARYING CIRCUMSTANCES.—Each plan filed with the Secretary under the procedures of subsection (a) shall take into account the varying circumstances of operations by the railroad carrier on different parts of its system, and shall prescribe appropriate fatigue countermeasures to address those varying circumstances.

''(2) ISSUES AFFECTING ALL EMPLOYEES PERFORMING SAFETY SENSITIVE FUNCTIONS.—The railroad carrier shall consider the need to include in its fatigue management plan elements addressing each of the following issues:

''(A) Education and training on the physiological and human factors that affect fatigue, as well as strategies to counter fatigue, based on current and evolving scientific and medical research and literature.

''(B) Opportunities for identification, diagnosis, and treatment of any medical condition that may affect alertness or fatigue, including sleep disorders.

''(C) Effects on employee fatigue of emergency response involving both short-term emergency situations, including derailments, and long-term emergency situations, including natural disasters.

''(D) Scheduling practices involving train lineups and calling times, including work/rest cycles for shift workers and on-call employees that permit employees to compensate for cumulative sleep loss by guaranteeing a minimum number of consecutive days off (exclusive of time off due to illness or injury).

''(E) Minimizing the incidence of fatigue that occurs as a result of working at times when the natural circadian rhythm increases fatigue.

''(F) Alertness strategies, such as policies on napping, to address acute sleepiness and fatigue while an employee is on duty.

''(G) Opportunities to obtain restful sleep at lodging facilities, including sleeping quarters provided by the railroad carrier.

''(H) In connection with the scheduling of a duty call, increasing the number of consecutive hours of rest off duty, during which an employee receives no communication from the employing railroad carrier or its managers, supervisors, officers, or agents.

''(I) Avoiding abrupt changes in rest cycles for employees returning to duty after an extended absence due to circumstances such as illness or injury.

''(J) Additional elements as the Secretary considers appropriate.

''(c) COMPLIANCE AND ENFORCEMENT.—

''(1) COMPLIANCE REQUIREMENT.—Effective upon approval or prescription of a fatigue management plan, compliance with that fatigue management plan becomes mandatory and enforceable by the Secretary.

''(2) EFFECTIVE DATE.—A fatigue management plan may include effective dates later than the date of approval of the plan, and may include different effective dates for different parts of the plan.

''(3) AUDITS.—To enforce this section, the Secretary may conduct inspections and periodic audits of a railroad carrier's compliance with its fatigue management plan.

''(d) DEFINITION.—For purposes of this section the term 'directly affected employees' means employees, including employees of an independent contractor or subcontractor, to whose hours of service the terms of a fatigue management plan specifically apply.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following new item:

''21109. Fatigue management plans.''.

SEC. 204. REGULATORY AUTHORITY.

(a) AMENDMENT.—Chapter 211 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 21110. Regulatory authority

''The Secretary of Transportation may by regulation—

''(1) reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter, based on scientific and medical research; or

''(2) increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter, based on scientific and medical research.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following new item:

''21110. Regulatory authority.''.

SEC. 205. CONFORMING AMENDMENT.

Section 21303(c) of title 49, United States Code, is amended by striking ''officers and agents'' and inserting ''managers, supervisors, officers, and agents''.

TITLE III—PROTECTION OF EMPLOYEES AND WITNESSES

SEC. 301. EMPLOYEE PROTECTIONS.

Section 20109 of title 49, United States Code, is amended to read as follows:

''§ 20109. Employee protections

''(a) PROTECTED ACTIONS.—A railroad carrier engaged in interstate or foreign commerce, and an officer or employee of such a railroad carrier, shall not by threat, intimidation, or otherwise attempt to prevent an employee from, or discharge, discipline, or in any way discriminate against an employee for—

''(1) filing a complaint or bringing or causing to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety, chapter 51 or 57 of this title;

''(2) testifying in a proceeding described in paragraph (1);

''(3) notifying, or attempting to notify, the railroad carrier or the Secretary of Transportation of a work-related personal injury or work-related illness of an employee;

''(4) cooperating with a safety investigation by the Secretary of Transportation or the National Transportation Safety Board;

''(5) furnishing information to the Secretary of Transportation, the National Transportation Safety Board, or any other public official as to the facts relating to any accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

''(6) accurately reporting hours of duty pursuant to chapter 211.

''(b) HAZARDOUS CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce, and an officer or employee of such a railroad carrier, shall not by threat, intimidation, or otherwise attempt to prevent an employee from, or discharge, discipline, or in any way discriminate against an employee for—

''(A) reporting a hazardous condition;

''(B) refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

''(C) refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in a hazardous condition, if the conditions described in paragraph (2) exist.

''(2) A refusal is protected under paragraph (1)(B) and (C) if—

''(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

''(B) the employee reasonably concludes that—

''(i) the hazardous condition presents an imminent danger of death or serious injury; and

''(ii) the urgency of the situation does not allow sufficient time to eliminate the danger without such refusal; and

''(C) the employee, where possible, has notified the carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of the hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

''(3) This subsection does not apply to security personnel employed by a railroad carrier to protect individuals and property transported by railroad.

''(c) ENFORCEMENT ACTION.—

''(1) IN GENERAL.—An employee who alleges discharge or other discrimination by any person

in violation of subsection (a) may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the Secretary of Labor.

''(2) PROCEDURE.—

''(A) IN GENERAL.—An action under this section shall be governed under the rules and procedures set forth in section 42121(b).

''(B) EXCEPTION.—Notification made under section 42121(b)(1) shall be made to the person named in the complaint and to the person's employer.

''(C) BURDENS OF PROOF.—An action brought under this section shall be governed by the legal burdens of proof set forth in section 42121(b).

''(D) STATUTE OF LIMITATIONS.—An action under this section shall be commenced not later than 1 year after the date on which the violation occurs.

''(3) DE NOVO REVIEW.—If the Secretary of Labor has not issued a final decision within 180 days after the filing of the complaint (or, in the event that a final order or decision is issued by the Secretary of Labor, whether within the 180-day period or thereafter, then, not later than 90 days after such an order or decision is issued), the employee may bring an original action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

''(d) REMEDIES.—

''(1) IN GENERAL.—An employee prevailing in any action under this section shall be entitled to all relief necessary to make the covered individual whole.

''(2) DAMAGES.—Relief in an action under this section shall include—

''(A) reinstatement with the same seniority status that the covered individual would have had, but for the discrimination;

''(B) the amount of any back pay, with interest; and

''(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

''(3) POSSIBLE RELIEF.—Relief may also include punitive damages in an amount not to exceed 10 times the amount of any compensatory damages awarded under this section.

''(e) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—It shall be unlawful for any railroad carrier to commit an act prohibited by subsection (a). Any person who willfully violates this section by terminating or retaliating against any such covered individual who makes a claim under this section shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

''(2) REPORTING REQUIREMENT.—

''(A) IN GENERAL.—The Attorney General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual report on the enforcement of paragraph (1).

''(B) CONTENTS.—Each such report shall—

''(i) identify each case in which formal charges under paragraph (1) were brought;

''(ii) describe the status or disposition of each such case; and

''(iii) in any actions under subsection (c)(1) in which the employee was the prevailing party or the substantially prevailing party, indicate whether or not any formal charges under paragraph (1) of this subsection have been brought and, if not, the reasons therefor.

''(f) NO PREEMPTION.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

''(g) RIGHTS RETAINED BY COVERED INDIVIDUAL.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any covered individual under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.''.

TITLE IV—GRADE CROSSINGS

SEC. 401. TOLL-FREE NUMBER TO REPORT GRADE CROSSING PROBLEMS.

Section 20152 of title 49, United States Code, is amended to read as follows:

''§ 20152. Emergency notification of grade crossing problems

''Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall require each railroad carrier to—

''(1) establish and maintain a toll-free telephone service, for rights-of-way over which it dispatches trains, to directly receive calls reporting—

''(A) malfunctions of signals, crossing gates, and other devices to promote safety at the grade crossing of railroad tracks on those rights-of-way and public or private roads; and

''(B) disabled vehicles blocking railroad tracks at such grade crossings;

''(2) upon receiving a report of a malfunction or disabled vehicle pursuant to paragraph (1), immediately contact trains operating near the grade crossing to warn them of the malfunction or disabled vehicle;

''(3) upon receiving a report of a malfunction or disabled vehicle pursuant to paragraph (1), and after contacting trains pursuant to paragraph (2), contact, as necessary, appropriate public safety officials having jurisdiction over the grade crossing to provide them with the information necessary for them to direct traffic, assist in the removal of the disabled vehicle, or carry out other activities appropriate to responding to the hazardous circumstance; and

''(4) ensure the placement at each grade crossing on rights-of-way that it owns of appropriately located signs, on which shall appear, at a minimum—

''(A) a toll-free telephone number to be used for placing calls described in paragraph (1) to the railroad carrier dispatching trains on that right-of-way;

''(B) an explanation of the purpose of that toll-free number as described in paragraph (1); and

''(C) the grade crossing number assigned for that crossing by the National Highway-Rail Crossing Inventory established by the Department of Transportation.

The Secretary of Transportation shall implement this section through appropriate regulations.''.

SEC. 402. ROADWAY USER SIGHT DISTANCE AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) IN GENERAL.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 20156. Roadway user sight distance at highway-rail grade crossings

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require each railroad carrier to remove from its rights-of-way at all public highway-rail grade crossings, and at all private highway-rail grade crossings open to unrestricted public access (as declared in writing by the holder of the crossing right), grass, brush, shrubbery, trees, and other vegetation which may obstruct the view of a pedestrian or a vehicle operator for a reasonable distance in either direction of the train's approach, and to maintain its rights-of-way at all such crossings free of such vegetation. In prescribing the regulations, the Secretary shall take into consideration to the extent practicable—

''(1) the type of warning device or warning devices installed at the crossing;

''(2) factors affecting the timeliness and effectiveness of roadway user decisionmaking, including the maximum allowable roadway speed, maximum authorized train speed, angle of intersection, and topography;

''(3) the presence or absence of other sight distance obstructions off the railroad right-of-way; and

''(4) any other factors affecting safety at such crossings.

''(b) PROTECTED VEGETATION.—In promulgating regulations pursuant to this section, the Secretary may make allowance for preservation of trees and other ornamental or protective growth where State or local law or policy would otherwise protect the vegetation from removal and where the roadway authority or private crossing holder is notified of the sight distance obstruction and, within a reasonable period specified by the regulation, takes appropriate temporary and permanent action to abate the hazard to roadway users (such as by closing the crossing, posting supplementary signage, installing active warning devices, lowering roadway speed, or installing traffic calming devices).

''(c) NO PREEMPTION.—Notwithstanding section 20106, subsections (a) and (b) of this section do not prohibit a State from continuing in force, or from enacting, a law, regulation, or order requiring the removal of obstructive vegetation from a railroad right-of-way for safety reasons that is more stringent than the requirements of the regulations prescribed pursuant to this section.

''(d) MODEL LEGISLATION.—Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary, after consultation with the Federal Railroad Safety Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions at highway-rail grade crossings that are equipped solely with passive warnings, such as permanent structures, temporary structures, and standing railroad equipment, as recommended by the Inspector General of the Department of Transportation in Report No. MH–2007–044.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter II of chapter 201 is amended by inserting after the item relating to section 20155 the following new item:

''20156. Roadway user sight distance at highway-rail grade crossings.''.

SEC. 403. GRADE CROSSING SIGNAL VIOLATIONS.

(a) AMENDMENTS.—Section 20151 of title 49, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 20151. Railroad trespassing, vandalism, and signal violation prevention strategy'';

(2) in subsection (a)—

(A) by striking ''and vandalism affecting railroad safety'' and inserting in lieu thereof '', vandalism affecting railroad safety, and violations of grade crossing signals'';

(B) by inserting '', concerning trespassing and vandalism,'' after ''such evaluation and review''; and

(C) by inserting ''The second such evaluation and review, concerning violations of grade crossing signals, shall be completed before April 1, 2008.'' after ''November 2, 1994.'';

(3) in the subsection heading of subsection (b), by inserting ''FOR TRESPASSING AND VANDALISM PREVENTION'' after ''OUTREACH PROGRAM'';

(4) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting ''(1)'' after ''MODEL LEGISLATION.—''; and

(C) by adding at the end the following new paragraph:

''(2) Within 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary, after consultation with State and local governments, railroad carriers, and rail labor organizations, shall develop and make available to State and local governments model State legislation providing for civil or criminal penalties, or both, for violations of grade crossing signals.''; and

(5) by adding at the end the following new subsection:

''(d) DEFINITION.—For purposes of this section, the term 'violation of grade crossing signals' includes any action by a motorist, unless directed by an authorized safety officer—

''(1) to drive around a grade crossing gate in a position intended to block passage over railroad tracks;

''(2) to drive through a flashing grade crossing signal;

''(3) to drive through a grade crossing with passive warning signs without ensuring that the grade crossing could be safely crossed before any train arrived; and

''(4) in the vicinity of a grade crossing, that creates a hazard of an accident involving injury or property damage at the grade crossing.''.

(b) CONFORMING AMENDMENT.—The item relating to section 20151 in the table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended to read as follows:

''20151. Railroad trespassing, vandalism, and signal violation prevention strategy.''.

SEC. 404. NATIONAL CROSSING INVENTORY.

(a) IN GENERAL.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20157. National crossing inventory

''(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

''(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates; or

''(2) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(b) UPDATING OF CROSSING INFORMATION.—(1) On a periodic basis beginning not later than 3 years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

''(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates; or

''(B) ensure that the information has been reported to the Secretary by another railroad carrier that operates through the crossing.

''(2) A railroad carrier that sells a crossing or any part of a crossing on or after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 shall, not later than the date that is 18 months after the date of enactment of that Act or 3 months after the sale, whichever occurs later, or as otherwise specified by the Secretary, report to the Secretary current information, as specified by the Secretary, concerning the change in ownership of the crossing or part of the crossing.

''(c) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this section. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instruction for States and railroads that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act of 2007, until such provision is superseded by a regulation issued under this section.

''(d) DEFINITIONS.—In this section:

''(1) CROSSING.—The term 'crossing' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

''(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

''(B) a pathway dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated.

''(2) STATE.—The term 'State' means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter II of chapter 201 is amended by adding at the end the following new item:

''20157. National crossing inventory.''.

(c) REPORTING AND UPDATING.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(l) NATIONAL CROSSING INVENTORY.—

''(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing located within its borders.

''(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 3 years after the date of enactment of the Federal Railroad Safety Improvement Act of 2007 and on or before September 30 of every third year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing located within its borders.

''(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Federal Railroad Safety Improvement Act of 2007, until such provision is superseded by a regulation issued under this subsection.

''(4) DEFINITIONS.—In this subsection, the terms 'crossing' and 'State' have the meaning given those terms by section 20157(d)(1) and (2), respectively, of title 49.''.

(d) CIVIL PENALTIES.—(1) Section 21301(a)(1) of title 49, United States Code, is amended—

(A) by inserting ''with section 20157 or'' after ''comply'' in the first sentence; and

(B) by inserting ''section 20157 of this title or'' after ''violating'' in the second sentence.

(2) Section 21301(a)(2) of title 49, United States Code, is amended by inserting ''The Secretary shall impose a civil penalty for a violation of section 20157 of this title.'' after the first sentence.

SEC. 405. ACCIDENT AND INCIDENT REPORTING.

The Federal Railroad Safety Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to the national accident database.

SEC. 406. AUTHORITY TO BUY PROMOTIONAL ITEMS TO IMPROVE RAILROAD CROSSING SAFETY AND PREVENT RAILROAD TRESPASS.

Section 20134(a) of title 49, United States Code, is amended by adding at the end the following: ''The Secretary may purchase promotional items of nominal value and distribute them to the public without charge as part of an educational or awareness program to accomplish the purposes of this section and of any other sections of this title related to improving the safety of highway-rail crossings and to prevent trespass on railroad rights of way, and the Secretary shall prescribe guidelines for the administration of this authority.''.

SEC. 407. OPERATION LIFESAVER.

(a) GRANT.—The Federal Railroad Safety Administration shall make a grant or grants to Operation Lifesaver to carry out a public information and education program to help prevent and reduce pedestrian, bicycle, motor vehicle, and other incidents, injuries, and fatalities, and to improve awareness along railroad rights-of-way and at highway-rail grade crossings. This includes development, placement, and dissemination of Public Service Announcements in newspaper, radio, television, and other media. It will also include school presentations, brochures and materials, support for public awareness campaigns, and related support for the activities of Operation Lifesaver's member organizations.

(b) PILOT PROGRAM.—Funds provided under subsection (a) may also be used by Operation Lifesaver to implement a pilot program, to be known as the Railroad Safety Public Awareness Program, that addresses the need for targeted, sustained community outreach on the subjects described in subsection (a). Such pilot program shall be established in States and communities where risk is greatest, in terms of the number of crashes and population density near the railroad, including residences, businesses, and schools. Such pilot program shall be carried out through grants to Operation Lifesaver for work with community leaders, school districts, and public and private partners to identify the communities at greatest risk, and through development of an implementation plan. An evaluation component requirement shall be included in the grant to measure results.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Railroad Safety Administration for carrying out this section $1,500,000 for each of the fiscal years 2008 through 2011.

SEC. 408. STATE ACTION PLAN.

(a) IN GENERAL.—The Secretary shall identify on an annual basis the top 10 States that have had the most highway-rail grade crossing collisions over the past year. The Secretary shall work with each of these States to develop a State Grade Crossing Action Plan that identifies specific solutions for improving safety at crossings, particularly at crossings that have experienced multiple accidents.

(b) REVIEW AND APPROVAL.—Not later than 60 days after the Secretary receives a plan under subsection (a), the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected State as to the specific points in which the proposed plan is deficient, and the State shall correct all deficiencies within 30 days following receipt of written notice from the Secretary.

SEC. 409. FOSTERING INTRODUCTION OF NEW TECHNOLOGY TO IMPROVE SAFETY AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) AMENDMENT.—Chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following:

''§ 20165. Fostering introduction of new technology to improve safety at highway-rail grade crossings

''(a) FINDINGS.—(1) Collisions between highway users and trains at highway-rail grade crossings continue to cause an unacceptable loss of life and serious personal injury and also threaten the safety of rail transportation.

''(2) While elimination of at-grade crossings through consolidation of crossings and grade separations offers the greatest long-term promise for optimizing the safety and efficiency of the two modes of transportation, over 140,000 public grade crossings remain on the general rail system—approximately one for each route mile on the general rail system.

''(3) Conventional highway traffic control devices such as flashing lights and gates are effective in warning motorists of a train's approach to an equipped crossing.

''(4) Since enactment of the Highway Safety Act of 1973, over $4,200,000,000 of Federal funding has been invested in safety improvements at highway-rail grade crossings, yet a majority of public highway-rail grade crossings are not yet equipped with active warning systems.

''(5) The emergence of new technologies supporting Intelligent Transportation Systems presents opportunities for more effective and affordable warnings and safer passage of highway users and trains at remaining highway-rail grade crossings.

''(6) Implementation of new crossing safety technology will require extensive cooperation between highway authorities and railroad carriers.

''(7) Federal Railroad Safety Administration regulations establishing performance standards for processor-based signal and train control systems provide a suitable framework for qualification of new or novel technology at highway-rail grade crossings, and the Federal Highway Administration's Manual on Uniform Traffic Control Devices provides an appropriate means of determining highway user interface with such new technology.

''(b) POLICY.—It is the policy of the United States to encourage the development of new technology that can prevent loss of life and injuries at highway-rail grade crossings. The Secretary of Transportation is designated to carry out this policy in consultation with States and necessary public and private entities.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new item:

''20165. Fostering introduction of new technology to improve safety at highway-rail grade crossings.''.

TITLE V—ENFORCEMENT

SEC. 501. ENFORCEMENT.

Section 20112(a) of title 49, United States Code, is amended—

(1) by inserting ''this part or'' in paragraph (1) after ''enforce,'';

(2) by striking ''21301'' in paragraph (2) and inserting ''21301, 21302, or 21303'';

(3) by striking ''subpena'' in paragraph (3) and inserting ''subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition''; and

(4) by striking ''chapter.'' in paragraph (3) and inserting ''part.''.

SEC. 502. CIVIL PENALTIES.

(a) GENERAL VIOLATIONS OF CHAPTER 201.—Section 21301(a)(2) of title 49, United States Code, is amended—

(1) by striking ''$10,000'' and inserting ''$25,000''; and

(2) by striking ''$20,000'' and inserting ''$100,000''.

(b) ACCIDENT AND INCIDENT VIOLATIONS OF CHAPTER 201; VIOLATIONS OF CHAPTERS 203 THROUGH 209.—Section 21302(a)(2) of title 49, United States Code, is amended—

(1) by striking ''$10,000'' and inserting ''$25,000''; and

(2) by striking ''$20,000'' and inserting ''$100,000''.

(c) VIOLATIONS OF CHAPTER 211.—Section 21303(a)(2) of title 49, United States Code, is amended—

(1) by striking ''$10,000'' and inserting ''$25,000''; and

(2) by striking ''$20,000'' and inserting ''$100,000''.

SEC. 503. CRIMINAL PENALTIES.

Section 21311(b) of title 49, United States Code, is amended by striking ''$500'' both places it appears and inserting ''$2,500''.

SEC. 504. EXPANSION OF EMERGENCY ORDER AUTHORITY.

Section 20104(a)(1) of title 49, United States Code, is amended by striking ''death or personal injury'' and inserting ''death, personal injury, or significant harm to the environment''.

SEC. 505. ENFORCEMENT TRANSPARENCY.

(a) AMENDMENT.—Subchapter I of chapter 201 of title 49, United States Code, is amended by adding at the end the following:

''§ 20118. Enforcement transparency

''(a) IN GENERAL.—Not later than December 31, 2007, the Secretary of Transportation shall—

''(1) provide a monthly updated summary to the public of all railroad enforcement actions taken by the Secretary or the Federal Railroad Safety Administration, from the time a notice commencing an enforcement action is issued until the enforcement action is final;

''(2) include in each such summary identification of the railroad carrier or person involved in the enforcement activity, the type of alleged violation, the penalty or penalties proposed, any changes in case status since the previous summary, the final assessment amount of each penalty, and the reasons for a reduction in the proposed penalty, if appropriate; and

''(3) provide a mechanism by which a railroad carrier or person named in an enforcement action may make information, explanations, or documents it believes are responsive to the enforcement action available to the public.

''(b) ELECTRONIC AVAILABILITY.—Each summary under this section shall be made available to the public by electronic means.

''(c) RELATIONSHIP TO FOIA.—Nothing in this section shall be construed to require disclosure of information or records that are exempt from disclosure under section 552 of title 5.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter I of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20118. Enforcement transparency.''.

SEC. 506. INTERFERING WITH OR HAMPERING SAFETY INVESTIGATIONS.

(a) AMENDMENT.—Subchapter II of chapter 213 of title 49, United States Code, is amended by adding at the end the following new section:

''§ 21312. Interfering with or hampering safety investigations

''(a) IN GENERAL.—It shall be unlawful for any person knowingly to interfere with, obstruct, or hamper an investigation by the Secretary of Transportation conducted under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title.

''(b) INTIMIDATION AND HARASSMENT.—It shall be unlawful for any person, with regard to an investigation conducted by the Secretary under section 20703 or 20902 of this title, or a railroad investigation by the National Transportation Safety Board under chapter 11 of this title, knowingly or intentionally to use intimidation, harassment, threats, or physical force toward another person, or corruptly persuade another person, or attempt to do so, or engage in misleading conduct toward another person, with the intent or effect of—

''(1) influencing the testimony or statement of any person;

''(2) hindering, delaying, preventing, or dissuading any person from—

''(A) attending a proceeding or interview with, testifying before, or providing a written statement to, a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector or State railroad safety inspector, or their superiors;

''(B) communicating or reporting to a National Transportation Safety Board railroad investigator, a Federal railroad safety inspector, or a State railroad safety inspector, or their superiors, information relating to the commission or possible commission of one or more violations of this part or of chapter 51 of this title; or

''(C) recommending or using any legal remedy available to the Secretary under this title; or

''(3) causing or inducing any person to—

''(A) withhold testimony, or a statement, record, document, or other object, from the investigation;

''(B) alter, destroy, mutilate, or conceal a statement, record, document, or other object with intent to impair the integrity or availability of the statement, record, document, or other object for use in the investigation;

''(C) evade legal process summoning that person to appear as a witness, or to produce a statement, record, document, or other object, in the investigation; or

''(D) be absent from an investigation to which such person has been summoned by legal process.

''(c) ELEMENTS OF VIOLATION.—(1) For the purposes of this section, the testimony or statement, or the record, document, or other object, need not be admissible in evidence or free from a claim of privilege.

''(2) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance that the investigation is being conducted by the Secretary under section 20703 or 20902 of this title or by the National Transportation Safety Board under chapter 11 of this title.

''(d) CRIMINAL PENALTIES.—A person violating this section shall be fined under title 18, imprisoned for not more than 1 year, or both.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 213 of title 49, United States Code, is amended by adding at the end the following new item:

''21312. Interfering with or hampering safety investigations.''.

SEC. 507. RAILROAD RADIO MONITORING AUTHORITY.

Section 20107 of title 49, United States Code, is amended by inserting at the end the following:

''(c) RAILROAD RADIO COMMUNICATIONS.—

''(1) IN GENERAL.—To carry out the Secretary's responsibilities under this part and under chapter 51, the Secretary may authorize officers, employees, or agents of the Secretary to conduct the following activities in circumstances the Secretary finds to be reasonable:

''(A) Intercepting a radio communication, with or without the consent of the sender or other receivers of the communication, but only where such communication is broadcast or transmitted over a radio frequency which is—

''(i) authorized for use by one or more railroad carriers by the Federal Communications Commission; and

''(ii) primarily used by such railroad carriers for communications in connection with railroad operations.

''(B) Communicating the existence, contents, substance, purport, effect, or meaning of the communication, subject to the restrictions in paragraph (3).

''(C) Receiving or assisting in receiving the communication (or any information therein contained).

''(D) Disclosing the contents, substance, purport, effect, or meaning of the communication

(or any part thereof of such communication) or using the communication (or any information contained therein), subject to the restrictions in paragraph (3), after having received the communication or acquired knowledge of the contents, substance, purport, effect, or meaning of the communication (or any part thereof).

''(E) Recording the communication by any means, including writing and tape recording.

''(2) ACCIDENT PREVENTION AND ACCIDENT INVESTIGATION.—The Secretary, and officers, employees, and agents of the Department of Transportation authorized by the Secretary, may engage in the activities authorized by paragraph (1) for the purpose of accident prevention and accident investigation.

''(3) USE OF INFORMATION.—(A) Information obtained through activities authorized by paragraphs (1) and (2) shall not be admitted into evidence in any administrative or judicial proceeding except—

''(i) in a prosecution of a felony under Federal or State criminal law; or

''(ii) to impeach evidence offered by a party other than the Federal Government regarding the existence, electronic characteristics, content, substance, purport, effect, meaning, or timing of, or identity of parties to, a communication intercepted pursuant to paragraphs (1) and (2) in proceedings pursuant to section 5122, 5123, 20702(b), 20111, 20112, 20113, or 20114 of this title.

''(B) If information obtained through activities set forth in paragraphs (1) and (2) is admitted into evidence for impeachment purposes in accordance with subparagraph (A), the court, administrative law judge, or other officer before whom the proceeding is conducted may make such protective orders regarding the confidentiality or use of the information as may be appropriate in the circumstances to protect privacy and administer justice.

''(C) No evidence shall be excluded in an administrative or judicial proceeding solely because the government would not have learned of the existence of or obtained such evidence but for the interception of information that is not admissible in such proceeding under subparagraph (A).

''(D) Information obtained through activities set forth in paragraphs (1) and (2) shall not be subject to publication or disclosure, or search or review in connection therewith, under section 552 of title 5.

''(E) Nothing in this subsection shall be construed to impair or otherwise affect the authority of the United States to intercept a communication, and collect, retain, analyze, use, and disseminate the information obtained thereby, under a provision of law other than this subsection.

''(4) APPLICATION WITH OTHER LAW.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) and chapter 119 of title 18 shall not apply to conduct authorized by and pursuant to this subsection.''.

SEC. 508. INSPECTOR STAFFING.

The Secretary shall increase the total number of positions for railroad safety inspection and enforcement personnel at the Federal Railroad Safety Administration so that by December 31, 2008, the total number of such positions is at least 500, by December 31, 2009, the total number of such positions is at least 600, by December 31, 2010, the total number of such positions is at least 700, and by December 31, 2011, the total number of positions is at least 800.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. POSITIVE TRAIN CONTROL SYSTEMS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, each Class I railroad carrier shall develop and submit to the Secretary a plan for implementing a positive train control system by December 31, 2014, that will minimize the risk of train collisions and over-speed derailments, provide protection to maintenance-of-way workers within established work zone limits, and minimize the risk of the movement of a train through a switch left in the wrong position.

(b) SAFETY REDUNDANCY.—The positive train control system required under subsection (a) shall provide a safety redundancy to minimize the risk of accidents by overriding human performance failures involving train movements on main line tracks.

(c) CONTENTS OF PLAN.—The Secretary may provide technical assistance and guidance to railroad carriers in developing the plans required under subsection (a), and shall require that each railroad carrier include in the plan, at a minimum—

(1) measurable goals, including a strategy and timeline for implementation of such systems;

(2) a prioritization of how the systems will be implemented, with particular emphasis on high-risk corridors such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate;

(3) identification of detailed steps the carriers will take to implement the systems; and

(4) any other element the Secretary considers appropriate.

(d) REVIEW AND APPROVAL.—Not later than 90 days after the Secretary receives a plan, the Secretary shall review and approve it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier as to the specific points in which the proposed plan is deficient, and the railroad carrier shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroads are complying with their plans.

(e) REPORT.—Not later than December 31, 2011, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems.

(f) AUTHORITY TO EXTEND DEADLINE.—The Secretary may extend the date for implementation required under subsection (a) for any Class I railroad carrier for a period of not more than 24 months if the Secretary determines such an extension is necessary—

(1) to implement a more effective positive train control system than would be possible under the date established in subsection (a);

(2) to obtain interoperability between positive train control systems implemented by railroad carriers;

(3) for the Secretary to determine that a positive train control system meets the requirements of this section and regulations issued by the Secretary; or

(4) to otherwise enhance safety.

(g) CERTIFICATION.—The Secretary shall not permit the installation of any positive train control system or component unless the Secretary has certified that such system or component has not experienced a safety-critical failure during prior testing and evaluation. If such a failure has occurred, the system or component may be repaired and evaluated in accordance with part 236 of title 49 of the Code of Federal Regulations and may be installed when the Secretary certifies that the factors causing the failure have been corrected and approves the system for installation in accordance with such part 236.

(h) NOTICE.—Not later than 30 days after the Secretary grants an extension under subsection (f), the Secretary shall publish a notice in the Federal Register that identifies the Class I railroad carrier that is being granted the extension, the reasons for granting the extension, and the length of the extension.

SEC. 602. WARNING IN NONSIGNALED TERRITORY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20158. Warning in nonsignaled territory

''Not later than 12 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require railroads, with respect to main lines in nonsignaled territory without a train speed enforcement system that would stop a train in advance of a misaligned switch, to either—

''(1) install an automatically activated device, in addition to the switch banner, that will, visually or electronically, compellingly capture the attention of the employees involved with switch operations and clearly convey the status of the switch both in daylight and darkness; or

''(2) operate trains at speeds that will allow them to be safely stopped in advance of misaligned switches.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20158. Warning in nonsignaled territory.''.

SEC. 603. TRACK SAFETY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20159. Track safety

''(a) RAIL INTEGRITY.—Not later than 12 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations to require railroad carriers to manage the rail in their tracks so as to minimize accidents due to internal rail flaws. The regulations shall, at a minimum—

''(1) require railroad carriers to conduct ultrasonic or other appropriate inspections to ensure that rail used to replace defective segments of existing rail is free from internal defects;

''(2) require railroad carriers to perform rail integrity inspections to manage an annual service failure rate of less than .1 per track mile on high-risk corridors such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate; and

''(3) encourage railroad carrier use of advanced rail defect inspection equipment and similar technologies as part of a comprehensive rail inspection program.

''(b) CONCRETE CROSSTIES.—Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary shall develop and implement regulations for all classes of track for concrete crossties that address, at a minimum—

''(1) limits for rail seat abrasion;

''(2) concrete crosstie pad wear limits;

''(3) missing or broken rail fasteners;

''(4) loss of appropriate toeload pressure;

''(5) improper fastener configurations; and

''(6) excessive lateral rail movement.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20159. Track safety.''.

SEC. 604. CERTIFICATION OF CONDUCTORS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20160. Certification of conductors

''(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the certification of train conductors. In prescribing such regulations, the Secretary shall require that conductors on passenger trains be trained in security, first aid, and emergency preparedness.

''(b) PROGRAM DESIGN.—The program established under this section shall be designed based on the requirements of section 20135(b) through (e).''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20160. Certification of conductors.''.

SEC. 605. MINIMUM TRAINING STANDARDS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20161. Minimum training standards

''The Secretary of Transportation shall, not later than 180 days after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, establish—

''(1) minimum training standards for each class and craft of railroad employees, which shall require railroad carriers to qualify or otherwise document the proficiency of their employees in each class and craft regarding their knowledge of, and ability to comply with, Federal railroad safety laws and regulations and railroad carrier rules and procedures promulgated to implement those Federal railroad safety laws and regulations;

''(2) a requirement for railroad carriers to submit their training and qualification programs to the Federal Railroad Safety Administration for approval; and

''(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that railroad employees charged with the inspection of track or railroad equipment are qualified to assess railroad compliance with Federal standards to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, or injury. In implementing the requirements of this paragraph, the Secretary shall take into consideration existing training programs of railroad carriers.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20161. Minimum training standards.''.

SEC. 606. PROMPT MEDICAL ATTENTION.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20162. Prompt medical attention

''(a) PROHIBITION.—A railroad or person covered under this title shall not deny, delay, or interfere with the medical or first aid treatment of an employee who is injured during the course of employment. If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest medically appropriate hospital.

''(b) DISCIPLINE.—A railroad or person covered under this title shall not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician. For purposes of this subsection, discipline means to bring charges against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note of reprimand on an employee's record.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20162. Prompt medical attention.''.

SEC. 607. EMERGENCY ESCAPE BREATHING APPARATUS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20163. Emergency escape breathing apparatus

''Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations that require railroads to—

''(1) provide emergency escape breathing apparatus for all crewmembers on freight trains carrying hazardous materials that would pose an inhalation hazard in the event of release; and

''(2) provide their crewmembers with appropriate training for using the breathing apparatus.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20163. Emergency escape breathing apparatus.''.

SEC. 608. LOCOMOTIVE CAB ENVIRONMENT.

Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the effects of the locomotive cab environment on the safety, health, and performance of train crews.

SEC. 609. TUNNEL INFORMATION.

Not later than 120 days after the date of enactment of this Act, each railroad carrier (as defined in section 20102 of title 49, United States Code) shall, with respect to each of its tunnels which—

(1) are longer than 1000 feet and located under a city with a population of 400,000 or greater; or

(2) carry 5 or more scheduled passenger trains per day, or 500 or more carloads of Toxic Inhalation Hazardous materials per year,

maintain for at least two years historical documentation of structural inspection and maintenance activities for such tunnels, including information on the methods of ingress and egress into and out of the tunnel, the types of cargos typically transported through the tunnel, and schematics or blueprints for the tunnel, when available. Upon request, a railroad carrier shall also provide periodic briefings to the government of the local jurisdiction in which the tunnel is located, including updates whenever a repair or rehabilitation project substantially alters the methods of ingress and egress. Such governments shall use appropriate means to protect and restrict the distribution of any security sensitive information provided by the railroad carrier under this section, consistent with national security interests.

SEC. 610. RAILROAD POLICE.

Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

SEC. 611. MUSEUM LOCOMOTIVE STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of its regulations relating to safety inspections of diesel-electric locomotives and equipment and the safety consequences of requiring less frequent inspections of such locomotives which are operated by museums, including annual inspections or inspections based on accumulated operating hours. The study shall include an analysis of the safety consequences of requiring less frequent air brake inspections of such locomotives.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary of Transportation shall transmit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 612. CERTIFICATION OF CARMEN.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, as amended by this Act, is further amended by adding at the end the following new section:

''§ 20164. Certification of carmen

''(a) REGULATIONS.—Not later than 18 months after the date of enactment of the Federal Railroad Safety Improvement Act of 2007, the Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the certification of carmen, including all employees performing mechanical inspections, brake system inspections, or maintenance on freight and passenger rail cars.

''(b) PROGRAM DESIGN.—The program established under this section shall be designed by the Secretary of Transportation based on the requirements of parts 215, 221, 231, 232, and 238 of title 49 of the Code of Federal Regulations.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

''20164. Certification of carmen.''.

SEC. 613. TRAIN CONTROL SYSTEMS DEPLOYMENT GRANTS.

(a) GRANT PROGRAM.—The Secretary of Transportation shall establish a grant program for the deployment of train control and component technologies, including—

(1) communications-based train control systems designed to prevent train movement authority violations, over-speed violations, and train collision accidents caused by noncompliance with authorities as well as to provide additional protections to roadway workers and protect against open switches in nonsignal territories;

(2) remote control power switch technology;

(3) switch point monitoring technology; and

(4) track integrity circuit technology.

(b) GRANT CRITERIA.—

(1) ELIGIBILITY.—Grants shall be made under this section to eligible passenger and freight railroad carriers and State and local governments for projects described in subsection (a) that have a public benefit of improved safety or network efficiency.

(2) IMPLEMENTATION PLAN.—An applicant for a grant made pursuant to this section shall file with the Secretary a train control implementation plan that shall describe the overall safety and efficiency benefits of installing systems described in subsection (a) and the stages for implementing such systems.

(3) CONSIDERATION.—The Secretary shall give priority consideration to applications that benefit both passenger and freight safety and efficiency, or incentivize train control technology deployment on high-risk corridors such as those that have significant movements of hazardous materials or where commuter and intercity passenger railroads operate.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2008 through 2011 to carry out this section.

(2) Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 614. INFRASTRUCTURE SAFETY INVESTMENT REPORTS.

Not later than February 15th of each year, each Class I railroad shall file a report with both the Federal Railroad Safety Administration and the Surface Transportation Board detailing, by State, the infrastructure investments and maintenance they have performed on their system, including but not limited to track, locomotives, railcars, and grade crossings, in the previous calendar year to ensure the safe movement of freight, and their plans for such investments and maintenance in the current calendar year. Such reports shall be publicly available, and any interested party may file comments

about the reports, which also shall be made public.

SEC. 615. EMERGENCY GRADE CROSSING SAFETY IMPROVEMENTS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall establish a grant program to provide for emergency grade crossing safety improvements, including the installation, repair, or improvement of—

(1) railroad crossing signals, gates, and related technologies, including median barriers and four quadrant gates;

(2) highway traffic signalization, including highway signals tied to railroad signal systems;

(3) highway lighting and crossing approach signage;

(4) roadway improvements, including railroad crossing panels and surfaces; and

(5) related work to mitigate dangerous conditions.

(b) GRANT CRITERIA.—

(1) ELIGIBILITY.—The Secretary may make grants to State and local governments under this section to provide emergency grade crossing safety improvements at a location where there has been a railroad grade crossing collision with a school bus, or collision involving three or more serious bodily injuries or fatalities.

(2) MAXIMUM AMOUNT.—Grants awarded under paragraph (1) shall not exceed $250,000 per crossing.

(3) NO STATE OR LOCAL SHARE.—The Secretary shall not require the contribution of a State or local share as a condition of the grant.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2008 through 2011 to carry out this section. Amounts made available under this subsection shall remain available until expended.

SEC. 616. CLARIFICATIONS REGARDING STATE LAW CAUSES OF ACTION.

Section 20106 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Laws, regulations''; and

(2) by inserting at the end the following new subsection:

''(b) CLARIFICATIONS REGARDING STATE LAW CAUSES OF ACTION.—

''(1) IN GENERAL.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has violated the Federal standard of care established by a regulation or order issued by the Secretary of Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to the railroad security matters) covering the subject matter as provided in subsection (a) of this section. This includes actions under State law for a party's violation of or failure to adequately comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the Secretaries or for a party's failure to adequately comply with a law, regulation, or order issued by either of the Secretaries. Actions under State law for a violation of a State law, regulation, or order that is not inconsistent with subsection (a)(2) are also not preempted.

''(2) RETROACTIVITY.—This subsection shall apply to all pending State law causes of action arising from events or activities occurring on or after January 18, 2002.''.

TITLE VII—RAIL PASSENGER DISASTER FAMILY ASSISTANCE

SEC. 701. SHORT TITLE.

This title may be cited as the ''Rail Passenger Disaster Family Assistance Act of 2007''.

SEC. 702. ASSISTANCE BY NATIONAL TRANSPORTATION SAFETY BOARD TO FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Subchapter III of chapter 11 of title 49, United States Code, is amended by adding at the end the following:

''§ 1139. Assistance to families of passengers involved in rail passenger accidents

''(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

''(1) designate and publicize the name and phone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

''(2) designate an independent nonprofit organization, with experience in disasters and posttrauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

''(b) RESPONSIBILITIES OF THE BOARD.—The Board shall have primary Federal responsibility for—

''(1) facilitating the recovery and identification of fatally injured passengers involved in an accident described in subsection (a); and

''(2) communicating with the families of passengers involved in the accident as to the roles of—

''(A) the organization designated for an accident under subsection (a)(2);

''(B) Government agencies; and

''(C) the rail passenger carrier involved,

with respect to the accident and the post-accident activities.

''(c) RESPONSIBILITIES OF DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) shall have the following responsibilities with respect to the families of passengers involved in the accident:

''(1) To provide mental health and counseling services, in coordination with the disaster response team of the rail passenger carrier involved.

''(2) To take such actions as may be necessary to provide an environment in which the families may grieve in private.

''(3) To meet with the families who have traveled to the location of the accident, to contact the families unable to travel to such location, and to contact all affected families periodically thereafter until such time as the organization, in consultation with the director of family support services designated for the accident under subsection (a)(1), determines that further assistance is no longer needed.

''(4) To arrange a suitable memorial service, in consultation with the families.

''(d) PASSENGER LISTS.—

''(1) REQUESTS FOR PASSENGER LISTS.—

''(A) REQUESTS BY DIRECTOR OF FAMILY SUPPORT SERVICES.—It shall be the responsibility of the director of family support services designated for an accident under subsection (a)(1) to request, as soon as practicable, from the rail passenger carrier involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the rail passenger carrier's train involved in the accident. A rail passenger carrier shall use reasonable efforts, with respect to its unreserved trains, and passengers not holding reservations on its other trains, to ascertain the names of passengers aboard a train involved in an accident.

''(B) REQUESTS BY DESIGNATED ORGANIZATION.—The organization designated for an accident under subsection (a)(2) may request from the rail passenger carrier involved in the accident a list described in subparagraph (A).

''(2) USE OF INFORMATION.—The director of family support services and the organization may not release to any person information on a list obtained under paragraph (1) but may provide information on the list about a passenger to the family of the passenger to the extent that the director of family support services or the organization considers appropriate.

''(e) CONTINUING RESPONSIBILITIES OF THE BOARD.—In the course of its investigation of an accident described in subsection (a), the Board shall, to the maximum extent practicable, ensure that the families of passengers involved in the accident—

''(1) are briefed, prior to any public briefing, about the accident and any other findings from the investigation; and

''(2) are individually informed of and allowed to attend any public hearings and meetings of the Board about the accident.

''(f) USE OF RAIL PASSENGER CARRIER RESOURCES.—To the extent practicable, the organization designated for an accident under subsection (a)(2) shall coordinate its activities with the rail passenger carrier involved in the accident to facilitate the reasonable use of the resources of the carrier.

''(g) PROHIBITED ACTIONS.—

''(1) ACTIONS TO IMPEDE THE BOARD.—No person (including a State or political subdivision) may impede the ability of the Board (including the director of family support services designated for an accident under subsection (a)(1)), or an organization designated for an accident under subsection (a)(2), to carry out its responsibilities under this section or the ability of the families of passengers involved in the accident to have contact with one another.

''(2) UNSOLICITED COMMUNICATIONS.—No unsolicited communication concerning a potential action for personal injury or wrongful death may be made by an attorney (including any associate, agent, employee, or other representative of an attorney) or any potential party to the litigation to an individual (other than an employee of the rail passenger carrier) injured in the accident, or to a relative of an individual involved in the accident, before the 45th day following the date of the accident.

''(3) PROHIBITION ON ACTIONS TO PREVENT MENTAL HEALTH AND COUNSELING SERVICES.—No State or political subdivision may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination.

''(h) DEFINITIONS.—In this section, the following definitions apply:

''(1) RAIL PASSENGER ACCIDENT.—The term 'rail passenger accident' means any rail passenger disaster occurring in the provision of—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

regardless of its cause or suspected cause.

''(2) RAIL PASSENGER CARRIER.—The term 'rail passenger carrier' means a rail carrier providing—

''(A) interstate intercity rail passenger transportation (as such term is defined in section 24102); or

''(B) interstate or intrastate high-speed rail (as such term is defined in section 26105) transportation,

except that such term shall not include a tourist, historic, scenic, or excursion rail carrier.

''(3) PASSENGER.—The term 'passenger' includes—

''(A) an employee of a rail passenger carrier aboard a train;

''(B) any other person aboard the train without regard to whether the person paid for the

transportation, occupied a seat, or held a reservation for the rail transportation; and

''(C) any other person injured or killed in the accident.

''(i) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

''(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to a railroad accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

''(2) BOARD ASSISTANCE.—If this section does not apply to a railroad accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.''.

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1138 the following:

''1139. Assistance to families of passengers involved in rail passenger accidents.''.

SEC. 703. RAIL PASSENGER CARRIER PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 251—FAMILY ASSISTANCE

''Sec.

''25101. Plans to address needs of families of passengers involved in rail passenger accidents.

''§ 25101. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLANS.—Not later than 6 months after the date of the enactment of this section, each rail passenger carrier shall submit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving a train of the rail passenger carrier and resulting in a major loss of life.

''(b) CONTENTS OF PLANS.—A plan to be submitted by a rail passenger carrier under subsection (a) shall include, at a minimum, the following:

''(1) A plan for publicizing a reliable, toll-free telephone number, and for providing staff, to handle calls from the families of the passengers.

''(2) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, either by utilizing the services of the organization designated for the accident under section 1139(a)(2) of this title or the services of other suitably trained individuals.

''(3) An assurance that the notice described in paragraph (2) will be provided to the family of a passenger as soon as the rail passenger carrier has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified) and, to the extent practicable, in person.

''(4) An assurance that the rail passenger carrier will provide to the director of family support services designated for the accident under section 1139(a)(1) of this title, and to the organization designated for the accident under section 1139(a)(2) of this title, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for the rail passenger carrier to use reasonable efforts to ascertain the names of passengers aboard a train involved in an accident.

''(5) An assurance that the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within the control of the rail passenger carrier.

''(6) An assurance that if requested by the family of a passenger, any possession of the passenger within the control of the rail passenger carrier (regardless of its condition) will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation.

''(7) An assurance that any unclaimed possession of a passenger within the control of the rail passenger carrier will be retained by the rail passenger carrier for at least 18 months.

''(8) An assurance that the family of each passenger or other person killed in the accident will be consulted about construction by the rail passenger carrier of any monument to the passengers, including any inscription on the monument.

''(9) An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(10) An assurance that the rail passenger carrier will work with any organization designated under section 1139(a)(2) of this title on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following each accident.

''(11) An assurance that the rail passenger carrier will provide reasonable compensation to any organization designated under section 1139(a)(2) of this title for services provided by the organization.

''(12) An assurance that the rail passenger carrier will assist the family of a passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

''(13) An assurance that the rail passenger carrier will commit sufficient resources to carry out the plan.

''(14) An assurance that the rail passenger carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

''(15) An assurance that, upon request of the family of a passenger, the rail passenger carrier will inform the family of whether the passenger's name appeared on any preliminary passenger manifest for the train involved in the accident.

''(c) LIMITATION ON LIABILITY.—A rail passenger carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the rail passenger carrier in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by the rail passenger carrier under subsection (b), unless such liability was caused by conduct of the rail passenger carrier which was grossly negligent or which constituted intentional misconduct.

''(d) DEFINITIONS.—In this section—

''(1) the terms 'rail passenger accident' and 'rail passenger carrier' have the meanings such terms have in section 1139 of this title; and

''(2) the term 'passenger' means a person aboard a rail passenger carrier's train that is involved in a rail passenger accident.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that a rail passenger carrier may take, or the obligations that a rail passenger carrier may have, in providing assistance to the families of passengers involved in a rail passenger accident.''.

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle V of title 49, United States Code, is amended by adding after the item relating to chapter 249 the following new item:

''251. FAMILY ASSISTANCE ..... 25101''.

SEC. 704. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Transportation, in cooperation with the National Transportation Safety Board, organizations potentially designated under section 1139(a)(2) of title 49, United States Code, rail passenger carriers, and families which have been involved in rail accidents, shall establish a task force consisting of representatives of such entities and families, representatives of passenger rail carrier employees, and representatives of such other entities as the Secretary considers appropriate.

(b) MODEL PLAN AND RECOMMENDATIONS.—The task force established pursuant to subsection (a) shall develop—

(1) a model plan to assist passenger rail carriers in responding to passenger rail accidents;

(2) recommendations on methods to improve the timeliness of the notification provided by passenger rail carriers to the families of passengers involved in a passenger rail accident;

(3) recommendations on methods to ensure that the families of passengers involved in a passenger rail accident who are not citizens of the United States receive appropriate assistance; and

(4) recommendations on methods to ensure that emergency services personnel have as immediate and accurate a count of the number of passengers onboard the train as possible.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the model plan and recommendations developed by the task force under subsection (b).

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110–371. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–371.

Mr. OBERSTAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OBERSTAR:

Page 27, line 19, through page 34, line 14, amend title III to read as follows (and amend the table of contents accordingly):

TITLE III—BRIDGE SAFETY

SEC. 301. RAILROAD BRIDGE SAFETY ASSURANCE.

Not later than 12 months after the date of enactment of this Act, the Federal Railroad Safety Administration shall implement regulations requiring owners of track carried on one or more railroad bridges to adopt safety practices to prevent the deterioration of

railroad bridges and reduce the risk of human casualties, environmental damage, and disruption to the Nation's transportation system that would result from a catastrophic bridge failure. The regulations shall, at a minimum—

(1) require each track owner to—

(A) develop and maintain an accurate inventory of its railroad bridges, which shall identify the location of each bridge, its configuration, type of construction, number of spans, span lengths, and all other information necessary to provide for the safe management of the bridges;

(B) ensure that a professional engineer competent in the field of railroad bridge engineering, or a qualified person under the supervision of the track owner, determines bridge capacity;

(C) maintain, and update as appropriate, a record of the safe capacity of each bridge which carries its track and, if available, maintain the original design documents of each bridge and a documentation of all repairs, modifications, and inspections of the bridge;

(D) develop, maintain, and enforce a written procedure that will ensure that its bridges are not loaded beyond their capacities;

(E) conduct regular comprehensive inspections of each bridge, at least once per year, and maintain records of those inspections that include the date on which the inspection was performed, the precise identification of the bridge inspected, the items inspected, an accurate description of the condition of those items, and a narrative of any inspection item that is found by the inspector to be a potential problem;

(F) ensure that the level of detail and the inspection procedures are appropriate to the configuration of the bridge, conditions found during previous inspections, and the nature of the railroad traffic moved over the bridge, including car weights, train frequency and length, levels of passenger and hazardous materials traffic, and vulnerability of the bridge to damage;

(G) ensure that an engineer who is competent in the field of railroad bridge engineering—

(i) is responsible for the development of all inspection procedures;

(ii) reviews all inspection reports; and

(iii) determines whether bridges are being inspected according to the applicable procedures and frequency, and reviews any items noted by an inspector as exceptions; and

(H) designate qualified bridge inspectors or maintenance personnel to authorize the operation of trains on bridges following repairs, damage, or indications of potential structural problems;

(2) instruct Administration bridge inspectors to obtain copies of the most recent bridge management programs and procedures of each railroad within the inspector's areas of responsibility, and require that inspectors use those programs when conducting bridge inspections; and

(3) establish a program to review bridge inspection and maintenance data from railroads and Administration bridge inspectors periodically.

Page 73, lines 18 through 21, strike section 610.

Page 73, line 22, through page 77, line 16, redesignate sections 611 through 615 as sections 610 through 614, respectively (and amend the table of contents accordingly).

Page 79, line 1, through page 80, line 7, strike section 616 (and amend the table of contents accordingly).

Page 80, after line 7, insert the following new section (and amend the table of contents accordingly):

SEC. 615. LOCOMOTIVE HORN REQUIREMENT WAIVER.

Section 20153(c) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(3) The Secretary, in reviewing applications for waivers or exemptions, shall consider horn noise and the impact of such noise on the local community and the unique characteristics of the community.''.

The CHAIRMAN. Pursuant to House Resolution 724, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

The collapse of the Interstate 35 bridge in Minneapolis on August 1 while I was at this very microphone managing a conference report on water resources amendments stunned the Nation, stunned this House. It startled my colleagues in the Minnesota delegation and our colleagues on the committee.

But shortly after that, the Federal Railroad Administration and the GAO warned that many of the Nation's 76,000 railroad bridges may also be at risk.

FRA on September 11 issued a rail safety advisory on railroad bridges, reporting that 52 accidents over the period 1982 to 1986 were caused by the catastrophic structural failure of railroad bridges. The most recent accident was the M&B Railroad near Myrtlewood, Alabama, where a train of solid-fuel rocket motors derailed when a timber trestle railroad bridge collapsed under that train. Several cars, one carrying a rocket motor, rolled onto their side. Six people were injured.

Bridge failures do not account for the majority of train accidents, but FRA noted and updated their guidelines and reported that they have found instances ''where lack of adherence to the FRA's bridge safety policy resulted in trains operating over structural deficiencies in steel bridges that could easily have resulted in serious train accidents.'' We deal with that issue, among others, in this manager's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I do not oppose the amendment, but ask unanimous consent to claim the time in opposition.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania is recognized for 5 minutes.

There was no objection.

Mr. SHUSTER. Mr. Chairman, Chairman OBERSTAR's manager's amendment contains several important provisions. First, it codifies FRA's existing safety advisory on railroad bridges. This provision will help ensure that the recent tragic collapse of the highway bridge in Minneapolis will never be repeated on our Nation's rail system.

The manager's amendment also modifies the Swift Act, which requires locomotives to sound whistles at every crossing in the Nation. The amendment will require the FRA to take into account the impact of horn use on local communities.

For example, the town of Baldwin, Florida, is only a mile wide, but has a number of rail crossings and heavy train traffic. According to Mayor Godbold of Baldwin, locomotives sound their horns over a thousand times per day in this small town. The amendment will help Baldwin and other towns balance issues of safety and noise pollution.

Finally, the manager's amendment makes some technical corrections deleting the preemption and the police provisions which have already been enacted in the 9/11 bill.

Mr. Chairman, I yield back the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee (Mr. COHEN), a member of the committee.

Mr. COHEN. Mr. Chairman, I want to thank the chairman and the ranking member and Mr. SHUSTER for doing such a wonderful job on this bill. The chairman is passionate about this issue, and the American people are fortunate to have people in the Chair's position who are knowledgeable and passionate about the subject matter.

I rise today in support of the H.R. 2095, and am pleased to be a cosponsor of this legislation which would reorganize the Federal Railroad Administration as the Federal Railroad Safety Administration, and requires the Secretary of Transportation to develop a long-term strategy for reducing the number and rates of accidents, injuries, and fatalities involving railroads. It is not just linguistics; it is action and direction.

The city of Memphis, which lies along the Tennessee border, is a major hub for the railroad industry. The city ranks third nationally in the number of class 1 railroads. According to the Memphis Regional Chamber, 220 trains pass through Memphis every day. Between January and July of 2007, there were 36 rail accidents in Shelby County, two of which were fatal. Consequently, railroad safety is critically important to my district.

I was pleased that this Congress passed and enacted H.R. 1401, the Rail and Public Transportation Security Act, which was designed to enhance the security of our railroad transportation systems. The bill also adopted an amendment I introduced which called on the Secretary of Transportation, in consultation with the Homeland Security Secretary, to work to minimize the hazards of toxic inhalation hazardous material.

This legislation today goes further by focusing on rail safety for passengers, pedestrians and train workers. The bill changes the hours of service rules for railroad workers and includes measures to improve areas where railroad tracks cross roads. This happens

too frequently in Memphis, particularly in the university district.

In response to inspection personnel shortages, the measure requires the Department of Transportation increase the number of Federal Railroad Safety Administration safety inspections and enforcement personnel, setting targets that are reachable and good for the public. I urge all Members to support passage of the bill.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time to point out that in the manager's amendment, we strike section 301, the whistleblower provision, and section 616, the preemption provision, which was included in the security bill. And I note those two because they are two of the five objections the administration raises in its statement of administration policy, so they are objecting to two items not in the bill nor in the manager's amendment. Therefore, I urge support of the manager's amendment.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to take this time to again thank Chairman OBERSTAR for his leadership on the issue of safety.

The Managers amendment clarifies two important issues that have been dealt with in other legislation. The whistleblower protections and changes to federal preemption which the committee worked hard to fix.

It also includes language that requires railroad owners to adopt measures that improve the safety of railroad bridges, and requires the Secretary to consider community concerns when granting exemptions for sounding locomotive whistles.

I encourage my colleagues to support this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MRS. NAPOLITANO

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110–371.

Mrs. NAPOLITANO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mrs. NAPOLITANO:

At the end of title VI, add the following new section (and amend the table of contents accordingly):

SEC. 617. SAFETY INSPECTIONS IN MEXICO.

(a) IN GENERAL.—Mechanical and brake inspections of rail cars performed in Mexico shall not be treated as satisfying United States rail safety laws or regulations unless the Secretary of Transportation certifies that—

(1) such inspections are being performed under regulations and standards equivalent to those applicable in the United States, including comparable enforcement procedures;

(2) the Mexican counterparts to the Federal Railroad Safety Administration are effectively enforcing such standards;

(3) the inspections are being performed by employees receiving comparable classroom and on the job training as is the norm in the United States;

(4) inspection records are maintained in both English and Spanish, and such records are available to the Federal Railroad Safety Administration for review; and

(5) the Federal Railroad Safety Administration is permitted to perform onsite inspections for the purpose of ensuring compliance with the requirements of this subsection.

(b) HAZARDOUS MATERIAL INSPECTIONS.—Notwithstanding subsection (a), no hazardous material inspections performed in Mexico shall be treated as having satisfied the applicable United States rail safety laws and regulations.

The CHAIRMAN. Pursuant to House Resolution 724, the gentlewoman from California (Mrs. NAPOLITANO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Mrs. NAPOLITANO. Mr. Chairman, my amendment ensures that trains entering or reentering this country from Mexico are certified and inspected. Over 10,000 trains enter the United States from Mexico through Calexico, San Ysidro, Brownsville, El Paso, Laredo, Eagle Pass and Arizona at Nogales. Currently, all trains crossing the border are inspected by our own U.S. inspectors who are highly trained, must follow stringent FRA requirements, fully understand rail safety laws, earn a good salary with strong benefits, and the rail companies they work for are fully liable in case of an accident.

U.S. railroad companies have been trying to outsource inspections to Mexico. Union Pacific has been twice denied by FRA in 2004 and 2007. We must set up a process for the Department of Transportation to ensure continued protection with legitimate inspections.

Mexican inspectors have much lower standards for safety than our U.S. inspectors, are not versed in U.S. laws and regulations, and are poorly compensated compared to U.S. inspectors.

My amendment ensures that all trains coming into the United States from Mexico continue to be safe for rail travel in our country and prohibits Mexican inspectors from performing safety inspections unless the U.S. Secretary of Transportation certifies that inspections are performed under U.S. regulation and U.S. standards, that the Mexican Government is effectively enforcing such safety standards, that inspectors are receiving comparable classroom and on-the-job training as in the U.S., inspection records are maintained in both English and Spanish, records are available to the FRA for review, and the FRA is permitted to perform on-site inspections in Mexico.

My amendment also forbids inspections of any hazardous material railcars from taking place in Mexico. FRA must have the ability to grant waivers only if strict safety precautions are in place and adhered to. My amendment protects against future attempts by railroads to apply for inspections in Mexico unless they follow restrictions. My amendment ensures safety and security of all trains entering the United States through the southern border.

Mr. Chairman, I ask my colleagues to support this important safety amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, though I do not oppose the amendment.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, I have some concerns with this amendment which attempts to regulate railcar brake inspections in Mexico.

As I understand it, this issue has already been dealt with by the FRA. The Union Pacific Railroad had requested a limited waiver to do certain air brake testing in Mexico, but the Federal Rail Administration denied that waiver. So air brake and other safety inspections are actually being done on the American side of the border.

A potentially larger issue is that this amendment attempts to regulate labor conditions in Mexico. This amendment would interfere with the existing flow of commerce across our southern border. I do not have an answer to that, but I am concerned it could be construed as violating NAFTA.

While I agree with Mrs. NAPOLITANO's intent of ensuring a safe U.S. rail system, I have great concerns. But I hope we can work together as we go through conference to take care of my concerns. I thank the chairman.

Mr. OBERSTAR. Mr. Chairman, I yield myself 1½ minutes to point out that although the gentleman is right, the FRA did deny Union Pacific, the denial is ''without prejudice to the submission of a future request addressing the same subject matter,'' so the issue remains alive and it seems appropriate to address it in this manner.

The gentleman does raise a concern about the NAFTA agreement and such language might run in contravention, but safety always trumps other issues. In our aviation trade agreements with other countries, the U.S. rules on safety prevail over those of the trading nation. We are elevating this whole role of safety in the FRA and changing its title to the Federal Railroad Safety Administration.

I think we should explore further in that context and with relationship to aviation the effect of NAFTA and the effect this language might have within NAFTA, and I will be glad to pursue that with the gentleman.

Mr. Chairman, I reserve the balance of my time.

□ 1700

Mrs. NAPOLITANO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BACA).

(Mr. BACA asked and was given permission to revise and extend his remarks.)

Mr. BACA. Mr. Chairman, I commend my friend GRACE NAPOLITANO for her leadership on this amendment.

This amendment is about protecting American jobs, and I state, about protecting American jobs. It's about ensuring the safety of our workers and our communities. It's about securing our Nation's borders. We must not let the railroad industry outsource this important work. The safety and security of our Nation depends on it.

Ten thousand trains enter the United States from Mexico each year. We must ensure the highest standards for safety inspections of these trains. American workers know how to do it best.

This amendment ensures the highest safety, training and enforcement standards are met. In the wake of 9/11 and in light of the train derailments we've seen, and I know that in my district we had one, it is the least we can do to enhance the safety of our community and ensure our Nation's safety.

I urge my colleagues to vote in favor of GRACE NAPOLITANO's amendment.

Mrs. NAPOLITANO. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I'm glad that the chairman of the committee pointed out that this is an ongoing issue.

In 2004, 2007, when it was requested, it may have been denied, but in San Antonio, we've had such a rash of accidents for the past 5 years that finally railroad safety came to the forefront and we are recognizing some progress. Let's not go backward and allow these waivers.

When the FRA denied the UP waiver in 2004, it did so because they found that documentation on employee training was insufficient and unsatisfactory. When they withdrew their request in 2007, the company spokesman commented that the political climate was wrong for them to push for the waiver.

But let us make sure that the political climate remains unfavorable and that common sense will prevail and only so if we pass this amendment, and I urge all my colleagues to vote ''yes'' on the Napolitano amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to commend the congresswoman for introducing this amendment. She's a great addition to the Transportation Committee, but she has come with strong support for railroad safety, and I want to thank her.

This is a perfect addition to this safety legislation. This amendment prohibits Mexican companies and inspectors from performing mechanical and brake inspections unless they follow U.S. safety, training and enforcement standards. It makes no sense to apply rail safety measures in the U.S. if they are not going to apply to trains coming in from Mexico. This is just a commonsense amendment.

I encourage my colleagues to support this amendment.

Mr. OBERSTAR. Under the rule, the gentlewoman from California has the right to close on her amendment?

The CHAIRMAN. The gentleman from Minnesota is right. The gentlewoman from California does have the right to close.

Mr. OBERSTAR. Mr. Chairman, with the further caveat about the issues raised by the gentleman from Pennsylvania about the possible effect on NAFTA, a matter going forward we can review with the appropriate authorities, I urge support for the amendment of the gentlewoman from California.

Mr. Chairman, I yield back the balance of my time.

Mrs. NAPOLITANO. Mr. Chairman, I thank Chairman OBERSTAR and Ranking Member MICA and all my colleagues.

This is a very important bill to continue making the FRA the safety agency it's supposed to be. We need to be able to ensure that any railcar traveling in the U.S. carries the same safety inspection standards as any other railcar.

So, with that, I ask for an ''aye'' vote and support for the amendment and the full bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Mrs. NAPOLITANO).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. PALLONE

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110–371.

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. PALLONE:

Page 80, after line 7, insert the following new section (and amend the table of contents accordingly):

SEC. 617. SURFACE TRANSPORTATION BOARD JURISDICTION OVER SOLID WASTE FACILITIES.

Section 10501 of title 49, United States Code, is amended—

(1) by striking ''facilities,'' in subsection (b)(2) and inserting ''facilities (except solid waste rail transfer facilities as defined in subsection (c)(3)(C)),''; and

(2) by adding at the end of subsection (c)(3) the following new subparagraph:

''(C) Nothing in this section preempts a State or local governmental authority from regulating solid waste rail transfer facilities. For purposes of this subparagraph, the term 'solid waste rail transfer facility' means the portion of any facility owned or operated by or on behalf of a rail carrier, at which occurs the—

''(i) collection, storage, or transfer, outside of original shipping containers;

''(ii) separation; or

''(iii) processing (including baling, crushing, compacting, and shredding), of solid waste, as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

The CHAIRMAN. Pursuant to House Resolution 724, the gentleman from New Jersey (Mr. PALLONE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. PALLONE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment will exclude solid waste rail transfer facilities from the exclusive jurisdiction of the Surface Transportation Board and provide that laws outlining the STB's jurisdiction would not preempt the authority of State and local governments to regulate such facilities.

In New Jersey, and all over the country, certain waste handlers and railroad companies have tried to exploit a supposed loophole in Federal law in order to set up unregulated waste transfer facilities.

Under the Interstate Commerce Commission Termination Act of 1995, the STB has exclusive jurisdiction over transportation by rail carriers and the ability to grant Federal preemption over other laws at any level, local, State or Federal, that might impede such transportation.

But Congress intended such authority to extend only transportation by rail, not to the operation of facilities that are merely sited next to rail operations or have a business connection to a rail company.

Unfortunately, certain companies have exploited this loophole to build or plan waste transfer stations next to rail lines and avoid any regulation from the State or local authorities.

It's my hope that this amendment will take the STB out of the waste management business by ensuring that State and local governments have the right to regulate solid waste transfer stations.

We must ensure that solid waste facilities follow the rules and do not pollute pristine open space, and do all that we can to protect our environment from unregulated facilities.

Mr. Chairman, I reserve the balance of my time.

Mr. SHUSTER. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. SHUSTER. Mr. Chairman, this amendment deals with STB preemption of laws regarding railroad waste transportation facilities. The Rail Subcommittee has held several hearings on this issue, one last year and another just yesterday.

I've a great interest in this issue, as my home State of Pennsylvania is the number one recipient of imported waste from other States, most of it coming from New Jersey and New York City. So, as I said, I've great concern.

At yesterday's hearing, we heard many complaints from local communities about illegal railroad, or not

even railroads, but people who claim the railroads, that are waste facilities. We also heard from the STB that most local laws are not currently preempted by Federal law. In fact, many entities claiming Federal preemption do not have legitimate claims.

I think it's clear that this law has to be clarified to make it easier to stop unscrupulous operators that Mr. PALLONE mentioned in his State of New Jersey, but regarding Mr. PALLONE's amendment, the STB has told our rail staff that this amendment needs improvement to accomplish that, to accomplish the stated goal of regulating railroad waste facilities.

In fact, I quote from a letter from the chairman of STB that says his ''general concern with the Pallone amendment is that it is overbroad and could result in local land use and zoning agencies exerting jurisdiction over legitimate rail transportation projects and impeding interstate commerce.''

In addition, the STB is already in the process of addressing many of these issues, which they need to do. If people were out there operating waste facilities in an illegal or unscrupulous manner, that needs to be addressed.

I would like to work with Mr. PALLONE on this issue, but I'm going to oppose this amendment on those grounds. We need to encourage States to deal with their trash problem, all of us across this country. We all produce waste. We've got to make sure in our neighborhoods that we're taking care of our own waste and not shipping it to other States, and I'm just concerned that that's what will occur if this amendment is passed. And so I urge my colleagues to oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. PALLONE. Mr. Chairman, may I inquire how much time remains?

The CHAIRMAN. The gentleman from New Jersey (Mr. PALLONE) has 3½ minutes remaining. The gentleman from Pennsylvania (Mr. SHUSTER) has 3 minutes remaining.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida (Ms. CORRINE BROWN), the subcommittee Chair.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to compliment Congressman PALLONE for his hard work on this issue of rail-owned waste transfer facilities.

Yesterday, the Railroad Subcommittee held a hearing on rail-owned municipal waste transfer facilities. We learned that there is a growing concern in the Northeast that some railroads are using Federal preemptions standards to shield themselves from important State and local environmental laws which are leading to a lack of environmental and health-related oversight of these facilities.

This language may need to be refined to ensure that States and localities don't overregulate the industry, but this is the right first step in ensuring that railroad operated waste transfer stations are not posing a health or environmental risk to the communities where they're operating.

I encourage my colleagues to support this amendment, and I think we will work as we go toward conference to improve it and refine the language.

Mr. SHUSTER. Mr. Chairman, I have no further speakers, and I reserve my time.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR), the chairman of the committee.

Mr. OBERSTAR. Mr. Chairman, the essential issue here is not whether the noxious fumes, whether the groundwater pollution caused by solid waste deposited on rail property should be regulated. The question here is whether the language and the manner in which the gentleman proposes to prevent those effects upon nearby communities is in interference with the authority and the preemption authority of the Federal Railroad Administration.

Mr. Mulvey, one of the commissioners of the Surface Transportation Board, said, ''I believe that an amendment such as this is necessary to redress the growing misuse of Federal railroad preemption law . . . with respect to solid waste transload facilities.'' But he, too, expresses concerns that it could be interpreted too broadly to frustrate the zoning of legitimate solid waste transfer facilities.

This is an issue, he says, that can be worked out. It can be worked out, and we are committed to doing so, with participation of the gentleman from Pennsylvania.

The CHAIRMAN. The time remaining is the gentleman from Pennsylvania (Mr. SHUSTER) has 3 minutes remaining. The gentleman from New Jersey (Mr. PALLONE) has 1½ minutes remaining. The gentleman from Pennsylvania has the right to close.

Mr. SHUSTER. Mr. Chairman, I agree with what the chairman said. Again, I don't disagree with the situation that is occurring that appears significant in New Jersey.

I am concerned, as I stated, that this language is going to allow communities to stop legitimate and law-abiding rail entities and operations, to stop them when they don't like it. I have great concern in that.

I believe the trash issue, as I said, is significant. Pennsylvania is the biggest importer of trash in the Nation with 10 million tons every year coming across the border into Pennsylvania.

My concern is that this problem will get pushed out of New Jersey and out of other States into States that are more willing to handle it, and as I said, we all produce trash. I'm sure today I've got half a waste can or more in my office. My community produces trash. Communities have to deal with that problem.

Again, nobody wants a landfill in their backyard, but the reality is we've got to have landfills. We've got to have these waste transfer stations. We've got to make sure, though, that people that are operating them are operating them properly so that we're not damaging the environment, that we aren't doing negative things to our communities because, as we heard yesterday, outside of Philadelphia and Bensalem, Mr. MURPHY's district, they were trying to redevelop their town, and right across the street, somebody wants to come in and put in a waste treatment facility or waste transfer station that's not going to be positive for that community.

So, again, local communities have to have some say, but we've got to make sure they're not overstepping and stopping legitimate operations.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I think it's clear the amendment does not apply to containerized facilities. They still are subject to the Federal preemption. The only question is whether there's infringement on preemption with open facilities, open solid waste storage facilities. That is a matter on which I think with further discussion we can reach an amicable resolution.

Mr. SHUSTER. I appreciate and look forward to having those discussions. I, again, oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. PALLONE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PATRICK J. MURPHY).

Mr. PATRICK J. MURPHY of Pennsylvania. Mr. Chairman, I thank the gentleman from New Jersey.

Mr. Chairman, I rise today to urge my colleagues to support this critical amendment that we are offering with my good friend Mr. PALLONE of New Jersey.

Right now in districts across America companies are trying to skirt the law and put our communities at risk.

□ 1715

In my district in Bensalem of Bucks County, Pennsylvania, a company is trying to construct a waste transfer facility despite widespread public opposition. A few months ago I stood with the leaders of Bensalem, Mayor Joseph DiGirolamo and State Representative Gene DiGirolamo, as we urged Congress to close this loophole that allows this end-run around local and State laws.

This is not a partisan issue, as these two Republican leaders of Bensalem will attest to. After all, ensuring that our neighborhoods are kept clean and safe isn't about politics; it is about doing what is right. With this amendment, we have an opportunity to protect our neighborhoods. I urge swift passage of this important amendment.

The CHAIRMAN. The gentleman from New Jersey is recognized for the 30 seconds remaining.

Mr. PALLONE. Thank you, Mr. Chairman. Let me just thank Mr. MURPHY, who I should say is a cosponsor with me of this amendment.

I include for the RECORD the letter from the Commissioner of the Surface Transportation Board, Mr. Francis Mulvey, to Chairwoman BROWN where he indicates his support of the amendment. He does, as the chairman of the full committee says, believe that there may be some issues that will have to be worked out as we move to conference or whatever on this. I would assure my colleague from Pennsylvania that we would try to do that. I urge support of the amendment.

SURFACE TRANSPORTATION BOARD,
Washington, DC, October 17, 2007.

Hon. CORRINE BROWN,
Chairwoman, Subcommittee on Railroads, Pipelines and Hazardous Materials, House of Representatives, Washington, DC.

DEAR CHAIRWOMAN BROWN: I am writing in support of the pending Pallone-Murphy Amendment to be offered to H.R. 2095, the Federal Railroad Safety Improvement Act of 2007. In accordance with my testimony before the Subcommittee at yesterday's hearing, I believe that an amendment such as this is necessary to redress the growing misuse of federal railroad preemption law, 49 U.S.C. 10501(b), with respect to solid waste transload facilities.

I am concerned that the Amendment could possibly be interpreted too broadly to enable State and local governments to frustrate the zoning of legitimate solid waste transload facilities, but I believe this is an issue that can be worked out as the Amendment and Bill move forward.

I also want to echo my testimony yesterday by making it clear that determining where the boundaries of federal preemption lie is a delicate process, as shown by the Board's and courts' thoughtful interpretations over the past 12 years since the passage of the ICC Termination Act of 1995. I do not believe that the scope of preemption should be narrowed any more than is necessary to prevent its misuse. Under no circumstances should State and local police powers be circumscribed.

Thank you for your consideration of my views. I remain available to answer any further questions you or other Members may have about this issue.

Sinerely,

FRANCIS P. MULVEY,
Commissioner.

Mr. HOLT. Mr. Chairman, I rise today to support the amendment from my colleague from New Jersey, Mr. PALLONE and my colleague from Pennsylvania, Mr. MURPHY to the Federal Railway Safety and Safety Improvement Act.

Mr. PALLONE and Mr. MURPHY's amendment would exclude from the jurisdiction of the Surface Transportation Board the regulation and approval of solid waste transfer and processing facilities near railway stations. This amendment addresses a serious environmental concern in allowing companies to skirt solid waste regulations and I fully support this amendment.

The Interstate Commerce Commission Termination Act of 1995 gave the STB jurisdiction over transportation by rail carriers and authorized the STB to pre-empt Federal, State or local laws in conflict with Commerce Clause. This law was intended to extend the STB's authority only to railroad operations, not to the operation of facilities located by rail services or to businesses which have a connection to a rail company. Unfortunately, confusion about Congressional intent behind the ICCTA has been exploited by some companies to override State and Federal environmental regulations for the sake of profit and have put both the environment and the public health at risk.

It is through a gross misinterpretation of ICCTA that the STB allows companies to seek Federal preemption of a host of environmental and public health laws by simply locating their facilities on railroad property. One of the more egregious examples of this abuse is the building of solid waste facilities along rail lines. In the State of New Jersey, the STB has allowed nine railroad transfer facilities to operate under the supposed Federal preemption supposedly authorized through the ICCTA—at least one of which handles toxic waste.

Many of these facilities are little more than trash heaps which do not have to comply with either State or Federal solid waste regulations. This is unacceptable. We have spent the last decade working to clean up the damage that has been caused by improper waste disposal, and continuing to allow companies to exploit the ICCTA is a step backwards in the progress we have made in regulating this industry. Mr. PALLONE and Mr. MURPHY's amendment would take a crucial step towards correcting this problem and I urge my colleagues to support it.

Mr. RAHALL. Mr. Chairman, it has been over a decade since Congress passed the Interstate Commerce Clause Termination Act.

While I have the deepest respect for my colleague from New Jersey who sponsored this amendment, I feel his amendment is overly broad and violates the letter and spirit of the ICCTA.

According to the Gentleman from New Jersey's amendment, any State and local agency can regulate railroad-owned, solid waste rail transfer facilities.

Father, forgive them; for they know not what they do.

Adoption of this amendment would mean that if a railroad were to try and establish a solid waste transload facility, local government authorities would have very few checks on their ability to regulate this industry.

There are no jurisdictional requirements in this amendment, no limit to the number of authorities which could mount challenges. It would begin to dismantle, piece by piece, the federal preemption that is integral to our national rail system.

Many of the individuals supporting this amendment today will tell you how states are unable to protect their citizens under the current guidelines set forth by the Surface Transportation Board.

What you may not hear, is that a State can protect the health and safety of their citizens.

Should companies violate the laws and regulations governing health and safety problems, a state can use its police power, take the offending railroad to court, or petition the Surface Transportation Board to halt the railroads operations.

New Jersey was able to shut down three waste transload facilities earlier this year, because the facility violated the fire safety laws.

These transportation facilities were not created through judicial fiat, they are defined in the very legislation we crafted a decade ago. They were addressed wholesale because we knew that to grant certain commodities preemption, and deny it to others, would create a daunting patchwork of regulation.

This amendment, as well intentioned as it may be, begins the path down that slippery slope. What's next? Will a state's department of environmental protection decide that it doesn't like the transportation of coal, or liquid natural gas, because of the pollution it may cause?

Mr. Chairman, I urge the defeat of this poorly crafted amendment,

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. PALLONE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. ROHRABACHER

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110–371.

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. ROHRABACHER:

Page 12, line 16, insert the following new paragraph before the close quotation mark:

''(5) There are authorized to be appropriated to the Secretary for each of the fiscal years 2008 through 2011 such sums as may be necessary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas.''.

The CHAIRMAN. Pursuant to House Resolution 724, the gentleman from California (Mr. ROHRABACHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, the amendment I am offering on behalf of myself and my colleague from California (Ms. RICHARDSON) provides authorization for the rails of the next generation. As this Congress looks at ways to curb pollution, new technologies such as electric conveyor systems are key in reducing our impact on the environment, while getting the job done more efficiently, thus promoting the economic prosperity and, of course, the well-being of the American people.

Currently, logjams occur as offloaded freight is bottlenecked at our ports waiting for trucks to take containers to interior rail and trucking hubs. Electric conveyor systems, on a set rail, can streamline this process, reducing costs to the American consumer as well as eliminating pollution that would otherwise come from these container hauling trucks.

It is also an issue of safety. American ports are found in coastal metropolitan areas. As the Minnesota bridge disaster reminds us, it is fitting that we look at the safety of our current infrastructure. But we should also look towards the future and the systems that will be in place in the years ahead. Electric conveyor systems have already proven to be extremely safe and efficient, but we would be remiss if we do not offer these systems the same funds for safety that we offer our current rail lines, and that is what this amendment seeks to accomplish. I urge my colleagues to support this amendment.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I claim the time in opposition, though I do not oppose the amendment.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I yield myself 2¾ minutes.

This is a proposal that really does have a thousand fathers. The distinguished gentleman from California (Mr. ROHRABACHER) is an advocate for this initiative; I believe the Governor of his State is an advocate for it, as the mayor of Los Angeles is an advocate for it. I know the City of San Diego and their planning organization are for this kind of initiative, the Department of Transportation, the Federal Railroad Administration, the Port of Los Angeles-Long Beach is an advocate for this. And I am an advocate for it. And I think that in this initiative we have found the ideal solution to intermodalism, to movement of goods, reduction of noise, of pollution, of accidents, of intersection of goods, people, and vehicles by adopting the maglev technology. This was an idea that I advocated well in advance of ISTEA in 1991. We got first funding in the ISTEA legislation for study of maglev technology. And then in TEA–21, under then Chairman Shuster, advocating experimental projects. It took years of development, but finally General Atomics, under contract with the Department of Transportation, perfected the technology. And then it was the Port of Long Beach/Los Angeles that said we would like to move containers with it before you start moving people. The ideal solution. I wish I had thought of it myself. But it was the port that came to the idea, and then the gentleman from California working with the port authority and with the State embraced this idea.

This can be a very exciting, successful initiative. We have a paying customer, containers. And with a combination of some Federal grant funding and loans from the railroad infrastructure loan program to whatever the sponsoring authority may be, it can be a State, it can be a railroad, this project can be very successful. We can have one not only in California but in discussion with the Chair of the Rail Subcommittee, Ms. BROWN, the Port of Jacksonville would be interested in such an initiative.

So I just want to point out that while the gentleman advances the cause, it is not limited only to California. The language of the amendment says, authorized to be appropriated such funds as may be necessary to design and develop a pilot electric cargo conveyor system for the transportation of containers from ports to depots outside of urban areas. A brilliant solution.

I reserve the balance of my time.

Mr. ROHRABACHER. How much time do I have left?

The CHAIRMAN. The gentleman from California has 3 minutes remaining.

Mr. ROHRABACHER. I would yield myself 1 minute and I would just suggest that that is the kind of opposition that I like. I thank you very much.

The vision Mr. OBERSTAR has just laid out is exactly what we are trying to do. Mr. OBERSTAR, of course, is responsible for today, but he is also, by working together with us, we are trying to make sure that we are building a better tomorrow based on the technology of tomorrow that will overcome some of the problems of today.

And let us note for the record, this is probably the first legislative step toward the direction of fulfilling the vision that Mr. OBERSTAR just outlined for us of what the potential of this is. So if they go back in history and 5, 10 years from now we have an incredible working system that takes tens of thousands of trucks off the road and it helps our environment, we can look back to this vote and this floor discussion as the first step.

I appreciate that very much and look forward to working with you. I think this is the perfect bipartisan effort where all of us can come together of any project that I know of.

I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Chairman, as Mr. ROHRABACHER pointed out, this authorizes a program to install a pilot electric conveyer system for cargo. There have been several concepts developed for the Port of Los Angeles to move cargo using electric trucks, LNG trucks, automated shuttles, and even maglev. The general idea is, as Mr. ROHRABACHER has pointed out, to get rid of the diesel trucks and move the cargo to outlying areas for transload to trains or truck. This would cut air pollution and potentially cut the congestion that exists now in the Port of Los Angeles, and would certainly benefit all of the Nation as we develop these types of transportation ideas.

I support Mr. ROHRABACHER's goal of reducing congestion and pollution and urge support of the amendment.

Mr. OBERSTAR. How much time do I have remaining?

The CHAIRMAN. The gentleman has 2½ minutes remaining. The gentleman from California has 1 minute remaining.

Mr. OBERSTAR. I yield 1½ minutes to the distinguished Chair of our Subcommittee on Rail, Ms. BROWN.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I know that this is something that my friend Juanita Millender-McDonald supported and worked hard to realize.

Representing the Port of Jacksonville, I fully understand how important it is to efficiently and safely unload cargo and get it moving to its final destination. As business continues to grow at ports across America, it is becoming increasingly necessary to find alternatives to trucking this increased cargo through towns and communities. This pilot program is one option for transporting cargo outside major urban areas, and we need to seek other solutions.

Mr. Chairman, I know that you addressed this issue, but can you tell us a little bit more how this pilot program will work? Will it limit itself to people in California, or would people in Jacksonville, all over the country, be able to participate in this pilot program?

Mr. OBERSTAR. If the gentlewoman would yield, the language is very broad. It says: Such sums as may be necessary to design and develop a pilot electric conveyor system. But I think that is not limited to one. That is broad enough language to be interpreted as to embrace more than one such project. It would be done by the Department of Transportation through the Federal Railroad Administration with appropriated funds. But also, the applicant has the authority under existing law in the SAFETEA-LU bill to apply for some of the $35 billion in railroad infrastructure loan funding.

Ms. CORRINE BROWN of Florida. I thank the chairman.

Mr. ROHRABACHER. I yield myself the balance of my time.

Again, I would like to thank Chairman OBERSTAR for his support and partnership in this. I would hope that we start with a demonstration at the Port of Los Angeles/Long Beach, whereas it would take tens of thousands of trucks off the road just there, but something that would be a model for the rest of the country.

And let me also suggest that, as we have discussed, this is a project that could well pay for itself and be done with having people who are using the system pay back what the cost of the system is. So it is something that we can work on and mold together in a way that will really serve the environment and make our country more efficient.

Let me note that Juanita Millender-McDonald, who was the Representative from Long Beach as well as myself, was a great supporter of this concept. We talked many times on this. Maybe we will name it after her in her memory. We miss her today. But Ms. RICHARDSON who took her place is very supportive of this as well, so we are working on this as a team. I deeply appreciate this positive spirit on both sides of the aisle, and ask my colleagues to support this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of the time.

Earlier, I said this project has a thousand fathers. I should have said a thousand parents, because there are mothers and fathers in the presence of the gentlewoman from Florida and the gentlewoman from California, the newest member of our committee, Ms. RICHARDSON.

And I love the gentleman's enthusiasm. Mr. ROHRABACHER has from the time we began discussing this project been a very vigorous and knowledgeable supporter of the project. He has

also worked to bring local interests in to work with the Governor of California. I think with this enthusiasm and with this broad bipartisan and bicoastal interest, the Pacific Coast and the Atlantic Coast, that we will see something happen. There is going to be a project resulting from this when we get this legislation enacted.

Mr. Chairman, I yield back the balance of my time and ask for support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROHRABACHER).

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WEINER) having assumed the chair, Mr. POMEROY, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2095) to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes, pursuant to House Resolution 724, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1730

MOTION TO RECOMMIT OFFERED BY MR. SALI

Mr. SALI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SALI. Yes, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Sali of Idaho moves to recommit the bill H.R. 2095 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House forthwith with the following amendments:

Strike ''Federal Railroad Safety Administration'' each place it appears and insert ''Federal Railroad Administration''.

Page 80, after line 7, insert the following new section (and amend the table of contents accordingly):

SEC. 617. FUNDING LIMITATION.

None of the funds made available pursuant to this Act or the amendments made by this Act may be used to change the name of the Federal Railroad Administration established under section 103 of title 49, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Idaho (Mr. SALI) is recognized for 5 minutes in support of his motion.

Mr. SALI. Mr. Speaker, Congress has a spending problem. The budget passed earlier this year anticipates spending $2.9 trillion over the next 12 months. That is more money than the total value of all goods and services produced in Germany at $2.87 trillion, China at $2.52 trillion, or the United Kingdom at $2.34 trillion.

This spending problem is further evidenced by a whopping $9 trillion national debt, a debt that can only be addressed by drastic change. Those changes will only come as Congress prioritizes and makes tough decisions, funding priorities and cutting wasteful spending.

Safety is an important issue. No one argues that point. But spending taxpayer money to rename a 40-year-old agency is just plain ridiculous, and yet, that is one of the things that this bill proposes to do.

The Federal Railroad Administration was created in 1966. Today's bill proposes to change the name of the agency to insert the word ''safety'' renaming it the Federal Railroad Safety Administration. While this sounds innocuous enough, it raises some very practical considerations for spending the American taxpayers' money.

The Federal Railroad Administration has 837 employees. Printing new business cards for everyone to reflect their new agency, at a cost of $30 per person, will cost taxpayers more than $25,000.

Consider also that the agency has eight regional offices across the country, all of which will require new signs to reflect the new agency name. Again, this raises questions: How much taxpayer money will the agency spend for these new signs?

How much taxpayer money will the agency spend to print new letterhead to reflect this name change, an agency that spent nearly $200,000 in printing costs last year?

How much taxpayer money will the agency spend issuing new regulations that reflect this new name?

Mr. Speaker, the bottom line is this. While all of these expenses are relatively modest in light of the $1.11 billion proposed to be authorized by this bill over 4 years, this kind of spending is unnecessary and, frankly, ridiculous.

If the point of this bill is safety, then why not spend the money on safety? Don't spend the hard-earned money of American families and individuals just to rename an agency. That type of spending is an out and out waste of taxpayer money.

Yes, Congress has a spending problem. The only way Congress will cure that problem is to prioritize, make tough decisions and learn, like everyone else, how to live within a budget.

Let us spend money on the priorities that serve the American people best. Let us save this kind of name-changing, sign-adjusting business until a day that we have extra money and no deficit.

I urge my colleagues to vote against needless spending, and please join me in voting for this motion to recommit.

I yield back the remainder of my time.

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to this rather frivolous amendment.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized for 5 minutes.

Mr. OBERSTAR. The only thing I can say for it is that I wish the gentleman had been here in 1995 when the Republican majority forced upon National Airport and the Washington Metropolitan Area Government Authority, Airport Authority, the changing of the name to Ronald Reagan Washington National Airport. And they did so, I say to the gentleman from Idaho, with their finger in the nose of the authorities, saying either you make the changes and you spend the money or we'll take your money away from you. And they said it right here on this floor.

What was the purpose of changing the name of that airport? No useful benefit.

We are creating a new safety emphasis for the Federal Railroad Administration.

In 1996, this committee and this Congress created a Motor Carrier Safety Administration. I didn't hear anybody jump up on the floor and say, Oh, my God, it's going to cost money to change the stationery of the agency.

Baloney. It doesn't cost any money at all. You just use up the existing stationery you have and print new ones. It doesn't cost you any new money. This is bogus. I have no idea where people get such ideas as this.

But when it comes to some priority that some people on the other side of the aisle had in previous Congresses, they shove it down the throat of the Washington Metropolitan Airport Authority and say, You will change the name on all the facilities. You will change, they said to the National Park Service, signs leading to the airport, and you will do it at your expense, at the Federal Government expense.

Here it's going to be a change of stationery. You run out of the existing stationery they have and print new ones that says ''safety'' on it.

Maybe he's getting at something more sinister. Maybe the gentleman doesn't want ''safety'' to be in the title of this agency. Maybe the gentleman doesn't want, and anyone who votes for such an amendment, doesn't want ''safety'' to be in the name of the agency that regulates safety in the public interest.

Vote against this amendment. This is nonsense.

I yield back.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SALI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 198, nays 222, not voting 11, as follows:

[Roll No. 979]

YEAS—198

Aderholt
Akin
Alexander
Bachmann
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bean
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gillibrand
Gingrey
Gohmert
Goode
Goodlatte
Graves
Hall (TX)
Hastert
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hill
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Kaptur
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
Lamborn
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Mahoney (FL)
Manzullo
Marchant
Matheson
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McKeon
McNerney
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Walberg
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—222

Abercrombie
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Jones (OH)
Kagen
Kanjorski
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Maloney (NY)
Markey
Marshall
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McHugh
McIntyre
McNulty
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wexler
Woolsey
Wu
Wynn
Yarmuth
Young (AK)

NOT VOTING—11

Ackerman
Carson
Conyers
Granger
Jindal
Johnson, E. B.
Matsui
McMorris Rodgers
Meek (FL)
Tancredo
Wilson (OH)

□ 1803

Messrs. FILNER, BERMAN, CARDOZA, KAGEN, CARNEY, DAVIS of Illinois, MARIO DIAZ-BALART of Florida, and ENGEL, and Ms. LORETTA SANCHEZ of California, Ms. LINDA T. SÁNCHEZ of California, and Ms. HOOLEY changed their vote from ''yea'' to ''nay.''

Messrs. TOM DAVIS of Virginia, UDALL of Colorado, TIBERI, and MACK, and Ms. GIFFORDS changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBERSTAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 38, not voting 16, as follows:

[Roll No. 980]

YEAS—377

Abercrombie
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Bean
Becerra
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehner
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Butterfield
Calvert
Camp (MI)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carter
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Edwards
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Giffords
Gilchrest
Gillibrand
Gohmert
Gonzalez
Goode
Goodlatte
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Markey
Marshall

Matheson	Pomeroy	Snyder
McCarthy (CA)	Porter	Solis
McCarthy (NY)	Price (NC)	Souder
McCaul (TX)	Putnam	Space
McCollum (MN)	Radanovich	Spratt
McCotter	Rahall	Stark
McCrery	Ramstad	Stearns
McDermott	Rangel	Stupak
McGovern	Regula	Sullivan
McHugh	Rehberg	Sutton
McIntyre	Reichert	Tanner
McKeon	Renzi	Tauscher
McMorris Rodgers	Reyes	Taylor
	Reynolds	Terry
McNerney	Richardson	Thompson (CA)
McNulty	Rodriguez	Thompson (MS)
Meeks (NY)	Rogers (AL)	Thornberry
Melancon	Rogers (KY)	Tiahrt
Mica	Rogers (MI)	Tiberi
Michaud	Rohrabacher	Tierney
Miller (FL)	Ros-Lehtinen	Towns
Miller (MI)	Roskam	Turner
Miller (NC)	Ross	Udall (CO)
Miller, Gary	Rothman	Udall (NM)
Miller, George	Roybal-Allard	Upton
Mitchell	Royce	Van Hollen
Mollohan	Ruppersberger	Velázquez
Moore (KS)	Rush	Visclosky
Moore (WI)	Ryan (OH)	Walberg
Moran (KS)	Ryan (WI)	Walden (OR)
Moran (VA)	Salazar	Walsh (NY)
Murphy (CT)	Sánchez, Linda T.	Walz (MN)
Murphy, Patrick		Wasserman Schultz
Murphy, Tim	Sanchez, Loretta	
Murtha	Sarbanes	Waters
Nadler	Saxton	Watson
Napolitano	Schakowsky	Watt
Neal (MA)	Schiff	Waxman
Neugebauer	Schmidt	Weiner
Nunes	Schwartz	Welch (VT)
Oberstar	Scott (GA)	Weldon (FL)
Obey	Scott (VA)	Weller
Olver	Sestak	Westmoreland
Ortiz	Shays	Wexler
Pallone	Shea-Porter	Whitfield
Pascrell	Sherman	Wicker
Pastor	Shimkus	Wilson (NM)
Payne	Shuler	Wilson (SC)
Pearce	Shuster	Wolf
Perlmutter	Simpson	Woolsey
Peterson (MN)	Sires	Wu
Peterson (PA)	Skelton	Wynn
Petri	Slaughter	Yarmuth
Pickering	Smith (NE)	Young (AK)
Platts	Smith (NJ)	Young (FL)
Poe	Smith (TX)	

NAYS—38

Barton (TX)	Flake	McHenry
Blackburn	Foxx	Musgrave
Broun (GA)	Franks (AZ)	Myrick
Burton (IN)	Garrett (NJ)	Paul
Buyer	Gingrey	Pence
Campbell (CA)	Hensarling	Pitts
Conaway	Herger	Price (GA)
Cubin	Jordan	Sali
Culberson	King (IA)	Sensenbrenner
Davis (KY)	Kingston	Sessions
Davis, David	Lamborn	Shadegg
Doolittle	Linder	Wamp
Duncan	Marchant	

NOT VOTING—16

Ackerman	Jindal	Serrano
Berman	Johnson, E. B.	Smith (WA)
Carson	Lowey	Tancredo
Conyers	Matsui	Wilson (OH)
Gordon	Meek (FL)	
Granger	Pryce (OH)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining on this vote.

□ 1810

Mr. ROYCE changed his vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, unfortunately, I was unable to be present for the rollcall votes on H.R. 2095, the Federal Railroad Safety Improvement Act and the Republican motion to recommit. Had I been present, I would have voted ''yea'' on H.R. 2095 and ''nay'' on the motion to recommit.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2095, FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 2095, the Clerk be authorized to correct section numbers, punctuation, cross-references, and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1815

RECOGNIZING COMMUNITY CHRISTIAN ACADEMY

(Mr. DAVIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Kentucky. Madam Speaker, I rise this evening to recognize the achievements of Community Christian Academy in Independence, Kentucky.

Founded in 1983 by the Community Pentecostal Church, the academy was born out of a strong desire to provide a first-rate education rooted in the fundamentals of Christianity. What began as a small school has grown into one of the most respected private schools in northern Kentucky.

The academy offers curriculum from kindergarten through high school. Recent years have seen the school and its facilities grow by leaps and bounds, becoming a fixture in the community. CCA is accredited through the International Christian Accrediting Association and the Non-Public School Commission of Kentucky.

The academy is known for its family-oriented atmosphere that emphasizes the participation of the entire family in the education of their 200 students.

Recently, CCA was recognized by Cincinnati Magazine as one of the best private high schools in the greater Cincinnati area. This achievement would not be possible without the support of an outstanding staff and faculty, guided by Principal Tara Bates.

I am pleased to recognize the achievements of students, parents and educators at the Community Christian Academy. For over 20 years, CCA has produced highly educated students in God's image. Tonight, I would ask my colleagues to join me in recognizing their commitment to excellence in education, dedication to their students and to thank them for their contributions to our community.

HONORING STAFF SERGEANT LILLIAN CLAMENS

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I rise today in honor of Staff Sergeant Lillian Clamens, who was killed in Iraq on October 10, 2 days before she was scheduled to come home, when insurgents launched a rocket attack on her unit. I want to extend my deepest condolences to her husband, Raymond, her three children, Victoria, Alana, and Ayinde, her parents and all of her family and friends.

Staff Sergeant Clamens was a true American patriot devoted to her family and her country. She served in the Army Reserve for more than 15 years and was assigned to the 1st Postal Platoon, 834th Adjutant General Company, in Miami. Prior to her deployment, she worked as an administrative clerk at the U.S. Southern Command in Doral.

She exemplified the best our Nation has to offer: a loving mother of three children, a devoted wife, and a soldier selflessly committed to serving our country.

Madam Speaker, her life will continue to inspire all those who knew her and many who frankly did not know her. The United States and our world is a far better place because of her service. The best way to honor her is to replicate her devotion to her country and her family.

She gave the ultimate sacrifice to help defend our freedoms and advance liberty for so many others. She was a true American hero whose dedication to freedom and family, Madam Speaker, made a difference in this world. I join all Americans in expressing my deepest sympathies to the family and friends of Staff Sergeant Lillian Clamens. Her commitment to, and sacrifice for, our great Nation will never be forgotten. She has the deepest gratitude and devotion of our Nation.

GITMO VS. FEDERAL PRISON

(Mr. POE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POE. Madam Speaker, we hear much hype about how bad GITMO prison is. That's where we keep prisoners of war, those terrorists that have been captured on the battlefield that have tried to kill Americans. The uninformed have compared the place to a gulag and a dungeon. I have been there and the place is neither.

Be that as it may, some POWs are treated better there than our Border Agents Ramos and Compean, who were sent to Federal prison for shooting a

border drug smuggler. This is the case where our government let a drug dealer go free and put border protectors in prison for 11 and 12 years.

Most POWs at GITMO are not in solitary confinement. But the border agents have been in solitary confinement for most of their sentences. The POWs get 9 hours a day of exercise, including soccer. The border agents spend 23 hours a day in their cells. The POWs watch Arabic TV. The border agents watch no TV. The POWs receive the same medical treatment as the United States military, but one border agent was assaulted in prison and didn't see a doctor for 5 days.

Madam Speaker, only in America do we treat terrorists and POWs better in GITMO than we do border agents who went to prison for protecting the border.

And that's just the way it is.

SPECIAL ORDERS

The SPEAKER pro tempore (Ms. CLARKE). Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CLEAN, SUSTAINABLE, RENEWABLE FUEL PRODUCED IN AMERICA BY AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from South Dakota (Ms. HERSETH SANDLIN) is recognized for 5 minutes.

Ms. HERSETH SANDLIN. Madam Speaker, I rise today to talk about energy, about where this Nation's energy should come from, and what form it should take. In my view, the answer is clear. Our energy should come from America, produced in America, by Americans, with the profits staying here at home. It should be clean, sustainable and renewable. These should be the overriding considerations for the energy policy that we are seeking to implement in this Congress. If we accept these criteria, and I think the American people already have, then an important part of the solution becomes clear. We must greatly increase our capacity to produce, distribute and utilize biofuels.

Just yesterday, the price of a barrel of oil hit yet another all-time high, more than $88 per barrel. A few years ago, this development would have been shocking. Yet no one was surprised by the news. We have become accustomed to oil prices shattering records every few weeks, and $100 oil seems to be a virtual certainty in the near future. Even without all the other problems, geopolitical, environmental, supply, that flow from our addiction to oil, its price volatility alone dictates that we must move in a bold new direction.

Yet since peaking at $3.20 a gallon in late May, gas prices at the pump have declined to an average of about $2.76 a gallon nationwide for regular unleaded. What accounts for this? A significant factor in bringing retail gas prices down for American families is ethanol. According to an article earlier this week in CNN.com, ''Gasoline prices have been held down in part by rising supplies of ethanol, which has been coming down in price in recent weeks. Ethanol production jumped 34 percent to 13.1 million barrels a month in July, the latest month for which data is available, from July 2006.''

Even the Wall Street Journal, whose editorial board arguably has been biased against and relentless in its disparagement of ethanol, stated in a September 21 article that despite recent record-high petroleum prices, there is ''another reason for steady gasoline prices: the use of ethanol as an additive to gasoline is on the rise. While crude prices have soared, ethanol prices have dropped as much as 30 percent in recent months. Ethanol costs more than 60 cents a gallon less than gasoline, and gasoline suppliers can offset some of the rise in crude-oil prices by blending their gasoline with small amounts of the cheaper fuel.''

The facts are clear: Ethanol is cleaner and less polluting than gasoline. It is grown right here at home with the benefits flowing to rural communities rather than foreign governments who may or may not be friendly. It is renewable and it is sustainable. Finally, it is cheaper than gasoline and helping to keep costs down at the pump for American consumers.

Yet, despite its obvious benefits, since corn farmers started producing this product 30 years ago, opponents of the industry, primarily Big Oil and its mouthpieces, have never stopped trying to undermine it. For many years, ''energy balance'' was the opponents' rallying cry. They claimed that ethanol took more units of energy to make than it yielded when it was burned. If that was ever true, it hasn't been the case in at least the last decade, and countless reputable studies have confirmed that fact. With remarkable increases in corn yields and ethanol efficiency in recent years, there is no question that there is a tremendous net energy gain in the production of corn-based ethanol. Yet even the most biased naysayer can no longer make that argument with a straight face, and that red herring seems finally to be dead.

Industry opponents now have a new angle of attack, and we are again being told that the sky is about to fall. The new argument? Americans will go hungry because demand for corn is rising. While we are using more corn for energy than we ever have before and demand for that product has risen, we have seen only modest increases in food prices, and those are attributable to many factors. Just yesterday, Acting Agriculture Secretary Chuck Connor indicated he expects food prices to increase next year at a moderate rate, in line with where they have been in recent years. Because increases in food costs in the country have been well below the rate of inflation for many years, this bodes well for consumers. He also explained that there were many significant factors affecting the cost of food today, including disappointing wheat yields around the world and high energy costs.

Finally, as the farmers in my State have repeatedly told me, there is one truism about American agriculture: The cure for high prices is high prices. In other words, when the value of a certain commodity goes up, farmers will rush to produce more of it. And this year has been as clear a demonstration of that as we have ever had in agriculture. Futures prices for corn were high this spring, and farmers took that into consideration when making their planting decisions. According to just-released USDA estimates, corn production for this year is forecast at 13.3 billion bushels, 26 percent above 2006. When it's in the bin, the 2007 corn crop would be the largest on record, with more acres harvested than any year since 1933.

These facts clearly indicate that American farmers have the ability to produce enough corn to meet the needs of U.S. consumers, for both food and energy. This is a winning formula for consumers, for agriculture and the environment and will propel us toward our ultimate goal: Producing clean, sustainable, renewable fuel in America, by Americans, with the profits staying here at home.

UNJUST PROSECUTION AND HARSH TREATMENT OF RAMOS AND COMPEAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Madam Speaker, today is day 274 of incarceration for two former U.S. Border Patrol agents. Agents Ramos and Compean were convicted in March of 2006 for shooting a Mexican drug smuggler who brought 743 pounds of marijuana across our border into Texas.

Two decorated Border Patrol agents with exemplary records, who were doing their duty to protect the American people from an illegal American drug smuggler, are serving 11 and 12 years in prison.

Since the agents' convictions, thousands of American citizens and dozens of Members of Congress have called for justice for these two border agents. You just heard the Congressman from Texas (Mr. POE) speak about this issue in a 1-minute speech. These two decorated agents were doing their duty to enforce the law and did not deserve to spend 1 day in prison.

While these two men appeal their convictions, they continue to languish in solitary confinement. Nine months of solitary confinement is unacceptable. The Bureau of Prisons has violated its own guidelines which state

that administrative detention is intended to be used for ''short periods not to exceed 90 days.''

Although former law enforcement officers face increased safety risks in prison, the harmful effects of prolonged solitary confinement are well-documented. Solitary confinement is not an acceptable long-term solution for ensuring their physical safety.

This week, I was pleased to join my friend, Congressman ROHRABACHER, and many other of my friends, including Congressman POE, in signing a letter to Mr. Michael Mukasey. This letter asked that, upon confirmation, the new Attorney General will thoroughly examine the flaws of this prosecution and will put an end to the harsh treatment these agents are receiving in prison. A directive from the Director of the Bureau of Prisons or the Attorney General can correct this unfair treatment.

Madam Speaker, with an unbiased review by the incoming Attorney General, I am hopeful that this gross miscarriage of justice will be corrected.

I say in closing, Madam Speaker, to the families of Mr. Ramos and Mr. Compean, please know that there are many of us in the United States Congress, the House and the Senate, that are trying to do what is right for your loved ones. This is an injustice that should not be allowed to continue. We need to bring justice to this injustice for these two men.

May God continue to bless America and our men and women in uniform.

□ 1830

THE VALUE OF THE JUSTICE SYSTEM IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Madam Speaker, according to today's Baltimore Sun, there have been 240 homicides in my hometown of Baltimore City, 22 more deaths than this time last year. Unfortunately, many of these victims and their families will not have closure because of the inability of law enforcement to bring their killers to justice. This is due in large part to the fear that witnesses have in coming forward.

Witness intimidation is a serious threat to our justice system. According to the National Institute of Justice, 51 percent of prosecutors in large jurisdictions find witness intimidation to be a major problem. In Baltimore City, it is estimated that witness intimidation occurs in 90 percent of the cases that are prosecuted.

Madam Speaker, protecting witnesses is a core government function. It is standard in the Federal system, and State and local prosecutors should have the same tools. However, there is a great disparity between funding and witness services, if any, that are provided by local authorities and those of the Federal Witness Security Program within the United States Marshals Service that operates on a $40 million budget to assist 17,500 witnesses and their family members with gaining new lives, new identities, and new jobs.

The Milwaukee Journal Sentinel recently reported on the problems associated with inadequate witness protection programs. Maurice Pulley was shot to death in front of his home, the apparent victim of retaliation for agreeing to cooperate with authorities. Just three days prior to his death, Mr. Pulley had agreed to testify as a witnesses against Calvin Glover for shooting him on June 30; however, law enforcement was not able to offer him assistance because the witness program in the county was essentially terminated due to budget cuts. The sheriff even admitted to occasionally relying on private funding to relocate witnesses.

Madam Speaker, the same week, the Denver Post told a story of Javad Marshall-Fields and his fiancee, who were gunned down just days before he was scheduled to testify against Robert Ray. In 2004, Robert Ray shot and killed one person and wounded two others, including Javad Marshall-Fields.

A program to protect State witnesses has been in existence in Colorado for over 12 years; however, the budget was recently cut from $100,000 to $50,000. Unfortunately, it now allows for a little more than a bus ticket or security deposit for a new apartment.

To make matters worse, it appears that no one told Javad that this program even existed, even though prosecutors filed a motion to keep his address and those of five other witnesses secret due to their fear of retribution. Why was Javad not notified of the program? His mom was told that it was because he did not ask.

Madam Speaker, as I always say, there is nothing worse than a person not knowing what they don't know. This is why I recently teamed up with Baltimore City's State's Attorney Patricia Jessamy to film a public service announcement encouraging people in the communities to come forward if they have witnessed a crime, or if they have already come forward and feel they may need protection.

Additionally, I have introduced H.R. 933, the Witness Security and Protection Act of 2007, that authorizes $270 million over the next 3 years to enable State and local prosecutors who demonstrate a need for funds to protect witnesses in cases involving gangs or other violence to establish short-term witness protection programs. This legislation will assist in correcting the inequity that exists between the Federal and State level. I call upon my colleagues to support its enactment.

Improving protection for State and local witnesses will move us one step closer to alleviating the fears and threats to prospective witnesses and help safeguard our communities from violence. It is time that we show our commitment to our constituents and the justice system, because without witnesses, there can be no justice.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HONORING STAFF SERGEANT ERIC DUCKWORTH, UNITED STATES ARMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Madam Speaker, in America's first war, fighting for freedom it was said by Patrick Henry, the great orator, ''The battle, sir, is not to the strong alone; it is to the vigilant, the active and to the brave.'' We are fortunate that those words still ring true today and that American soldiers overseas carry those values into battle.

One such warrior was Staff Sergeant Eric Duckworth. Army Staff Sergeant Eric Duckworth was killed in the line of duty in Iraq just a few days ago, on October 10, when he was leading a convoy and his vehicle was hit by an IED, an improvised explosive device, on the side of the road.

Madam Speaker, Sergeant Duckworth was 26 years of age and on his second tour in Iraq. He graduated from Clear Lake High School in Houston, Texas, in 1999, and while in high school, he wanted to participate in the military, so he joined the Reserve Officers Training Corps, the ROTC. Of course, as soon as he graduated from high school, he joined the United States Army.

His parents, Michael and Barbara Duckworth, of The Woodlands, Texas, say that for as long as they can remember, their son Eric wanted to serve his country in public service both in law enforcement and in the military. His father, Michael, described him as an outgoing and good-humored son. He further said, ''Eric was full of love and laughter and a Godly spirit, but, above all, he was a true soldier and a proud warrior.''

When I talked to Michael about his son Eric, he told me that Eric's only two wishes were that he serve in the military and that he also serve in law enforcement. Those wishes were granted when he was a military police officer and also a member of the United States Army.

Sergeant Duckworth was also a husband and a father. He is survived by his wife of 5 years, Sonya, and they have three children: Kaylynn, age 10; Madison, age 4; and young Michael, age 1. Eric's mom, Barbara, would send what I call ''care packages'' overseas to her son Eric, and what she included in those packages tells us a lot about Eric

and his personality. He received beef jerky, bubble gum, NASCAR magazines, and Dallas Cowboy T-shirts.

Eric said that the Iraqi people were grateful to Americans for their sacrifice in Iraq. Sergeant Duckworth also said it was his destiny and his belief that he should be an American soldier. He shared that belief with his mother in their last conversation they had together before he was killed in Iraq.

Madam Speaker, Eric's father spoke of his pride in his son's firm belief and dedication to the mission in Iraq. Eric's father, Michael, said Eric believed in his purpose, and his children, his nieces, his nephews will all grow up in a better world because of Eric's dedication to America.

So not only Eric, but the whole Duckworth family felt it was important that Staff Sergeant Eric Duckworth serve in the United States Army overseas. Sergeant Duckworth's service to his family and the Army and this country will always be remembered. Of course he is one of those few proud American heroes.

Madam Speaker, this is a photograph of Staff Sergeant Eric Duckworth. He was a real person that lived and died for the rest of us. His service reminds me of the lyrics to a song written by Toby Keith that is titled, ''The American Soldier.'' Part of those lyrics say, ''I will always do my duty, no matter what the price. I have counted up the cost, but I know the sacrifice. I don't want to die, but if dying is asked of me, I will bare that cross with honor, because freedom doesn't come free. I'm an American soldier, an American soldier.''

Staff Sergeant Duckworth, America appreciates your sacrifice on the alter of freedom for the rest of us, and we also appreciate the sacrifice of the entire Duckworth family down in Houston, Texas. We are sympathetic and grieve with this family, but are proud of their son who served in the United States Army.

And that's just the way it is.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. WYNN) is recognized for 5 minutes.

(Mr. WYNN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TAKING CARE OF AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, tonight I would like to discuss briefly another case of one of our very valiant soldiers who has returned to Ohio and numbers himself among the walking wounded.

My question to the President of the United States, my question to Members of this Congress, is what is wrong with the government of this country when we cannot move the bill we passed in this House that increased veterans spending by 18 percent, get it through the other body and to the President of the United States to sign? What is wrong with the way we govern that the President of the United States cannot call the leader of the other body and say, ''Move the bill so we can take care of the over 100,000 wounded that are coming home to us''?

The soldier I would like to talk about is only one of many that I met last Sunday who returned home from Iraq and is not being treated. This is a soldier who saw duty as a member of the 983rd Army Engineering Battalion, Combat, Heavy Duty, in Iraq, saw conflict, came home wounded, and is not getting treatment.

Here is what happened. There was an accident involving a truck and IEDs over there in Iraq and this particular soldier had a severe spinal cord injury and injuries to his head. In addition to that, since returning home, has had grand mal seizures, epileptic seizures. He never had that before he went to Iraq.

The military said, ''There is something wrong with him. We will give him a 60 percent disability. But we won't give him 100 percent disability, because maybe he got those injuries from playing football in high school.'' Football in high school? He never had seizures until he went to Iraq and got injured.

So the military says, ''Well, we will try to fix your neck.'' He goes through an operation in a hospital several hours away. It is very difficult for him to return there, because he doesn't have regular employment at this time and he is dealing with PTSD on top of everything else.

Now, why doesn't the government of the United States make it easy for wounded veterans, and we are not talking about 25 million people, we are talking about somewhere between 100,000 and 150,000 Americans to get cared for closest to home? Why can't we do that? Why can't the President of the United States, he is Commander-in-Chief of our Armed Forces, and this Congress, work together in the national interest to take care of all the soldiers that are coming home to us wounded?

In that particular unit that I visited on Sunday, there are many, many, many, many servicemembers who have PTSD. Why are they being asked to go 2½ hours away from home, spend an entire day waiting in line at a hospital, and then maybe coming back home again and wasting a day when they don't get paid at work, if they have a job? Why can't we take care of them close to home? We are not talking about 25 million people. We are talking about a very discrete set of Americans who put their lives on the line for us, and yet we can't find a way to care for them?

I hope the President of the United States has somebody listening to this tonight, because as Commander-in-Chief, it would be very easy to call over to that other body and to move our Department of Veterans Affairs bill out of this Congress, up Pennsylvania Avenue, get it signed, and with dispatch get the Secretary of Defense and Secretary of Veterans Affairs and say, ''Work with the Congress. Work with the individuals who are here. Let's get these ill veterans to the care they need.''

Why do we make it so hard? Why do we put the burden on the veteran? I had one veteran come up to me and say, ''Congresswoman, my knee is all messed up. I had an accident over there. Why did the DOD discharge me before fixing my knee?'' Now he has got to take weeks and weeks off of work, which he is unwilling to do, to try and go get an operation at a hospital very far from where he lives, and he doesn't have a support system in place.

Why would we do that? Why would the DOD not find a way to take a valorous veteran who is part of a combat engineering battalion and take care of him? Why do we let him fall between the cracks between the DOD and the VA? It is our responsibilities and the President's responsibility to care for these veterans, and we had best get at it.

□ 1845

The SPEAKER pro tempore (Ms. CLARKE). Under a previous order of the House, the gentleman from Kentucky (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Kentucky addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

SUPPORT VETO OVERRIDE ON SCHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Ms. HIRONO) is recognized for 5 minutes.

Ms. HIRONO. Madam Speaker, I rise today to urge my colleagues to override the President's veto of the Children's Health Insurance Program reauthorization. The bill we sent him earlier this month would provide health

insurance for 10 million low-income children.

This includes continuing insurance for the 20,000 kids in my State of Hawaii already in the program, and reaching out to provide coverage for an additional 12,000 Hawaiian children currently eligible but not yet enrolled in the program.

I am disappointed that the President and many Members on the other side of the aisle have taken what can fairly be characterized as a stand against children. This is how much of the country views their position. Apparently even the President is aware that his veto was a bad decision because he now says that he wants to find a way to compromise with Congress. However, the CHIP reauthorization that the President vetoed was already a bipartisan compromise.

The original bill we passed in the House would have ensured health care for children of legal immigrants and other important provisions that the Senate saw fit to cut. So the version of the legislation that the President vetoed was in fact already a compromise bill.

It is not surprising that we have strong public support for a bill that reflects our American values. Forty-three Governors, Republican and Democratic Governors alike, share our belief that all children deserve access to health care. Senate Republicans who helped shape the legislation agree.

The Honolulu Star-Bulletin summed it up precisely in an editorial this month by declaring that the President's ''veto is indefensible.''

Therefore, I urge my colleagues not to defend the President's indefensible veto, but to instead join together in defense of the most vulnerable among us, our children.

This is not only the right thing to do, it is the fiscally responsible thing to do. The bill is fully paid for, and the cost of this preventive care will save substantial money over time as we keep children out of unnecessary and expensive emergency room visits.

I am also distressed but not surprised by the President's misinformation in defending his veto. He would like people to believe that our bill provides health coverage to families who don't need it, those who are making $83,000 for a family of four. This is simply not true. In fact, our bill does the opposite.

Our bill helps States reach out to enroll the poorest children most in need of health coverage and it decreases Federal contributions to States which cover families over 300 percent of the Federal poverty line.

What this veto comes down to is a question of values: Should every child in this country have health care? Does every child deserve a chance to grow up into a healthy adult? I think so, as do my constituents in Hawaii and indeed the majority of Americans.

Tomorrow's vote will reflect our values, and I urge my colleagues to stand with our children.

SCHIP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Minnesota (Mr. WALZ) is recognized for 60 minutes as the designee of the majority leader.

Mr. WALZ of Minnesota. Madam Speaker, I thank my colleagues who are here tonight. As a new Member, I am joined by other new Members who have been in this body for 9 months. Tomorrow we have an opportunity to take an important and historic vote, the veto override on SCHIP.

It is a piece of legislation that many of us believe, as you just heard our colleague from Hawaii so clearly illustrate, is critically important to the health of our Nation's children.

We came here 9 months ago from the classroom, from the courtroom, from the board room, and from the operating room. And we are here tonight with a single purpose, to talk about the importance of this piece of legislation to clearly illustrate when this body makes a choice like we will make tomorrow, and the President talks about it being a budgetary issue, he is partially right. Budgets are financial documents, but they are also much more. They are a reflection of the values that we as a Nation share.

Tomorrow we will have the opportunity to show as a people that we value our children. We value their health. We value our future. The greatest asset we have is these children.

At my house this weekend was a very special occasion and one I felt very blessed to be able to attend. My son, Gus, celebrated his first birthday on Saturday. He was surrounded by grandparents, cousins, aunts, uncles and friends. A good time was had by all.

I came back to Washington and on Tuesday morning my wife said Gus was feeling a little bad, and she took him to see our doctor. Gus had an earache and he was put on some antibiotics and he was given a little bit of Motrin. He had one rough night, but was feeling better the next day.

The thought of this little guy going through any type of pain or suffering over something so treatable and so easy to take care of as an earache would be unimaginable to me. And yet, that is what happens to 9 million children across this country. That is what their parents go through.

The President has made it clear, those types of issues, and if Gus happened to be someone without health insurance, he would have suffered through an earache. Or maybe Gus would have a parent who couldn't suffer through it and would have taken him to the emergency room where it would cost far more.

So my colleagues and I are committed to making sure that no parent has to make the choice whether to take their child to get their care. That no parent has to have the gut-wrenching experience of deciding if they are going to pay bills, or if they are going to try to pay out of pocket to get their child covered.

This government and we as a people can do far better. Tonight, we are going to take you through the process of this legislation. We are going to take our colleagues through everything that is involved and the myths that have been perpetuated. This is something that is difficult for myself and my colleagues to deal with. We are going to hear from people like Dr. KAGEN, who has seen what happens if children cannot get health care or are suffering with asthma, and he will talk about the implications of what it takes to get a child covered.

I think each of my colleagues here tonight will put a face on this for you. My colleagues have an opportunity to cast a vote tomorrow to override the veto and provide this Nation's children with the health care they deserve. It is not a privilege for them, it is a right as an American citizen, and we are here to guarantee that. We are here to make an investment in our future and do the fiscally responsible thing.

This program is 10 years old now. It has been highly successful. No matter what the President said, it is clear, and people need to know this, this is a cap block grant program. This is State administered. This is private physicians and private insurance. Any words to the contrary is muddying the waters on this. We have seen this President try this before. He tried to sell this Nation on privatized Social Security, and this body said no. This President sold us, and many of us feel very strongly about this, sold us on the necessity to go to war in Iraq, and here we sit 5 years later understanding the implications of that.

We have an administration that is trying to sell this body a bill of goods. We are ready to override this veto tomorrow, and my colleagues here tonight are ready to illustrate to this body why they should cast their vote tomorrow in favor of overriding this veto.

It is a great pleasure to turn over to my good friend from neighboring Wisconsin and also one of the very few physicians in this body, someone who has worked on these issues his entire life who is dedicated to the treatment and making sure our children are healthy, and that is my good colleague, Dr. KAGEN from Wisconsin.

Mr. KAGEN. I thank my colleague, and I appreciate your kind words and your passion and your introductory remarks about SCHIP, which in Wisconsin is under the name of BadgerCare. BadgerCare cares for about 57,000 Wisconsinites today.

Would the President change his mind and sign the bill we passed, by enacting SCHIP in Wisconsin, we could sign up an additional 37,000 children and perhaps their young mothers as well. This is a bill that will determine what kind of Nation we are and which direction we are going to turn.

It will also answer the question whose side are we on. Are we on the

side of special interests, the big insurance companies, or are we on the side of ordinary people, hardworking families that simply don't have enough money to purchase private insurance.

Ninety percent of the people in the SCHIP program across the country earn less than $41,000 a year. And I submit if you are making $41,000 every year, you don't have $12,000 or $14,000 to pay for private health insurance. This is a necessary program that will determine the life and the health of our children, on whose future we all depend.

I yield to my colleague, BRUCE BRALEY from Iowa.

Mr. BRALEY of Iowa. That is an interesting point, because we have been hearing all week how some people with incomes as high as $85,000 will be covered. How does that square with the comment you just made that 90 percent of the people under the program are making less than $45,000?

Mr. KAGEN. I would say it is a smokescreen, like many of the attempts of this administration to cloud the issues and kick up some smoke, to confuse the American people.

The State of New York asked for a waiver to cover those people under $83,000 of income. They were refused under the SCHIP program; but that refusal became a fact. The fact is that we have never enacted legislation that covers people above $41,000. $63,000. I think $60,000 will be the number now. But, look, this is about kids. Let's put a human face on this before we go any further.

This is a young girl. She is 3 years of age. She is Kailee Meronek. She lives in a trailer home with her 3-month-old sister; her mother, Wendy; and her father, Scott, who is a stay-at-home dad. Her mother, Wendy, makes $2.33 an hour working in a restaurant, plus tips. They don't have the money to pay for insurance. They are covered by BadgerCare funded through SCHIP. This is the face of America. We cannot turn our backs on our Nation's children. They are our treasure.

Mr. WALZ of Minnesota. I thank the gentleman from Wisconsin, and I would like to talk a little bit about this.

This issue we are discussing is a program which has proven to be highly successful. It was put in to understand and address the issue that if you do not treat children with preventive medical care, you will treat them with chronic care down the road. Or you will treat them in a setting that is much more expensive, like in the emergency room.

This President is mischaracterizing what is going on here. The President is talking about some of the myths that he is putting out there to make this appear like this is some type of government-run health care program. Now I find it a bit ironic and a little bit disingenuous that there are Members who sit in this body tonight who would vote against SCHIP, yet receive government-paid-for health care coverage. These are children who do not have the choice.

President Bush, using the $83,000 level, is simply doing it, and these are not my words. Take a look at this. This was USA Today talking about what they call the $83,000 question. ''Bush's claim is misleading at best; simply wrong at worst. The House would do well to look past the President's deceptive rhetoric and override this veto.'' The President is misleading the public on exactly what this does.

This is not the way to have this debate. This Nation needs to have an open, honest debate. Do we value our children to the point that we are willing to invest in basic preventive health care? And it is a question that stretches from Minnesota to Iowa to Wisconsin and across to our good friend out in California. I am glad to be joined tonight by Mr. MCNERNEY who, coming from the most populous State, understands the issues that face this, and understands that when a program is administered in coordination with the State at a local level, that invests in preventive care, that is a very conservative notion, and it is one that this Nation would be well served to, as our friends at USA Today said, look past the rhetoric.

I yield to the gentleman from California.

Mr. MCNERNEY. I thank my friend from Minnesota.

Madam Speaker, the President turned his back on about 10 million American children that he could have protected. I am actually appalled by this decision to veto funding for children's health insurance, and his rejection of support from nearly every U.S. Governor and almost three-quarters of the American people.

The Children's Health Insurance Program is a good program. It is worthy and efficient. It costs less than $3.50 per day per child.

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However, rather than protecting our children, this President put at risk nearly 45,000 of the children in my district and millions of children across the United States. As the cost of health care continues to rise, which it will, it's reckless to oppose a plan that covers our country's most needy children.

Let me tell you what I'm talking about in more personal terms. It's going to cost a family of four about $750 a month for health insurance. That's about $9,000 a year. If you're earning $45,000, you have a family of four, $9,000 is completely out of reach, and this follows on my good friend from Wisconsin.

You have to pay for gasoline, you have to pay for your car, for your transportation, about $1,000 to $2,000 for your mortgage. How on Earth are you going to be able to afford $9,000 a year for health insurance? You're going to be forced to take your children to the emergency rooms when their situations are critical.

So the Children's Health Insurance Program is very important. It's needed. Our children need to have that.

Mr. KAGEN. So let me review and see if I get this straight.

These funds come from the Federal Government in the grant form. It's capped in this expense. It goes to every State, and every State that we have in the Union fashions their own program, whether or not they choose to cover the mother of a child.

Listen, as a doctor, I have to tell you, in 30 years of practicing medicine, I have never seen a child in my examination room without the mother or a caregiver that was responsible for the children. So we, in Wisconsin, cover the parent, the mother, as well in order to increase the enrollment in this program.

This reauthorization of this SCHIP program, it's primary intent is not just to retain the 3.8 million children who are covered, but to expand it to all the children in the country who are already eligible and to expand it from 200 percent of Federal poverty level up to 300 percent.

So, if I understand the facts, the facts are these. It's a State-run private program. Poorest working families are the focus. It costs $3.50 a day per child to keep them covered, and we hope to cover 10.4, 10.8 million children across the country. So these are the facts as I understand them. Covers kids up to age 19; is that right?

And did you hear the same argument that I heard on this floor, that it might cover illegal aliens? Is that a fact?

Mr. WALZ of Minnesota. Well, no, absolutely. But I think it goes back to this about the open, honest discussion.

This Nation I think overwhelmingly, and we know that in each of our districts, whether it's California, Wisconsin, Iowa, Minnesota, no matter where we're at, we hear this, Madam Speaker.

I would like to just for a minute before I send this back over to my good friend from California, I think it's important to understand that all of us received a letter today, an impassioned letter, one that I feel very strongly illustrates where we're at. And this came from our colleagues over in the other Chamber, over in the Senate. It came from Senator BAUCUS, the Democrat from Montana. It came from Senator GRASSLEY, your Senator from Iowa. It came from Senator ROCKEFELLER in West Virginia, and it came from Senator HATCH out in Utah. And what they told us was this. They sent us this letter dated today as we get ready to cast this vote.

''Dear Colleague:

''As you prepare to cast your vote tomorrow on the Children's Health Insurance Program Reauthorization Act, those of us who took lead roles in writing the bill in the Senate would like to provide you with detailed information about the legislation. The material below responds directly to the great amount of misinformation that has been spread about this bill. We hope that you will take time to review these facts before you vote. The four of us

worked together on a bipartisan basis for most of this year to craft'' this piece of legislation ''that will do just what we all want to do: serve low-income children who currently lack health coverage. The following information separates fact from fiction.'' And let me read you their first line.

''Fiction: The compromise bill would expand coverage for children in families with incomes of up to $83,000 a year.

''Fact: The bill does not raise the eligibility level for CHIP. While the State of New York did ask the Department of Health and Human Services for approval to raise eligibility'' of the poverty level to 400 percent, ''the Secretary rejected New York's request.''

Many of us in here understand why New York City would ask to raise it in this case. It was not accepted, but the issue is the cost of living and the cost of delivery in New York City, but it was rejected. It never happened. It never went through.

The President of the United States restated a myth today with the purposeful intention of misleading, as this said, at best, wrong at worst, and I said, these are the types of things, we're here to have the discussion.

If this body and Members that were with us choose to cast their vote against overriding this veto, it should be based on factual knowledge. It should be based on the understanding of what this is going to do, and it should not be based on political rhetoric.

And with that, I turn it back over to my friend and colleague from Iowa.

Mr. BRALEY of Iowa. I don't understand, because you mentioned three key Republican sponsors of the SCHIP bill in the Senate, one my Senator and my constituent from Iowa, Senator CHARLES GRASSLEY.

And I'm looking at today's Congress Daily and there's a quote in here from TOM REYNOLDS, a Representative from New York, and he says, I want Republicans at the table and then I want to write a decent bill that will serve poor children first.

But it sounds to me like Republicans were at the table for months helping craft a bipartisan compromise bill that put the needs of poor children first. So I'm confused.

Mr. WALZ of Minnesota. And I would respond to that, and the thing that I think this Nation wants more than anything is, this is a body and there are Members, please don't get us wrong. There's a veto-proof majority with many Republican sponsors on the Senate side. We had 45 of our Republican colleagues in this body vote with this.

This was crafted in 1997 under President Clinton, Democratic President, and a Republican House and Senate. This is a good piece of legislation.

I might also add that 43 of the Nation's 50 Governors are supporting this wholeheartedly, the piece of legislation we came up with. Fifteen of those are Republicans, including my Republican Governor, Governor Pawlenty, who happens to chair the Governors' Conference in this country.

So this is a strong piece of legislation. Many of us I think are quite confused, as you're right. This is something that Republican authorship on this should be proud of, as Senator GRASSLEY and Senator HATCH have been, and I applaud them for their vision. I applaud them for reaching across to us to find a good piece of legislation, and I yield to my friend from Wisconsin.

Mr. KAGEN. But it isn't just Governors, both Democrat and Republican, that support children's health care. It isn't just the overwhelming majority of Senators. It isn't just the majority of Congresspeople. It's groups like Easter Seals, the March of Dimes, the American Medical Association, American Hospital Association, American Academy of Family Practice, American Academy of Pediatrics, and on and on we go.

Every organization that cares about people, including members of the faith community of all persuasions, is in back of this bill.

This bill makes sense. It's good for our children's health. It's good for our businesses. It just makes sense to invest in our children's future. To turn our back now at this point is morally unacceptable. It is morally unacceptable.

Mr. MCNERNEY. I just want to follow up on the bipartisanship here.

We passed this with a good margin here in the House. We got 265 votes, a clear bipartisan majority. They got 69 votes in the Senate, more than two-thirds. Our Governor in California, Arnold Schwarzenegger supports SCHIP. This is a significant achievement for us to work together to have us produce something that the majority of Americans want across the board, bipartisanship. They want us to cooperate. They want us to do good things for the country. Here, we produce something, we're proud and I'm proud of it, and the President chose to veto it.

So I think this shows that we can work together and that the President needs to come around to our way of seeing this. This is good for the children. Americans want it.

Mr. KAGEN. I don't want anyone in this Chamber or anyone in America to misunderstand the situation.

We present this bill. It's already a compromise. We passed a bill that cared not just for children but for our senior citizens on Medicare. Medicare beneficiaries, when we sent the bill to the Senate, would have gained what? At no additional co-pay, they would have preventive health care measures like mammograms, cancer screening, diabetic education coverage. But the Senate chopped off the health care additions for our senior citizens, said, no, this is a children's bill, and they sent us a bill that I felt was morally responsible.

This bill meets the needs of children. It's accepted by doctors, by insurance companies, by private hospitals. This bill is passable. This bill should not have been vetoed.

Mr. WALZ of Minnesota. I think it's critically important, Madam Speaker, to understand the President is framing this in simply a dollars and cents argument. He's saying that this goes beyond authoring $35 billion in terms of what the compromise piece of legislation that overwhelmingly, in a veto-proof majority in the Senate, has passed, a large number of our colleagues across the aisle, 45, to join us on this piece of legislation.

Dr. KAGEN so clearly pointed out everyone from AARP to the Children's Defense Fund, Easter Seals, March of Dimes, Cancer Society, across the board, American Nurses Association, pediatric physicians across the country agree that this is a good bill.

But let's say for a minute that that's not the case and let's say that it is strictly a fiscal thing, if the President can separate a budget into being strictly a fiscal document, not a moral document that affects this Nation's values. He is still undercutting massively what it's going to take.

We have watched this administration throughout the President's tenure continue to underestimate the need. We saw it in the Veterans Administration, where we saw the President say, well, I have two things that I think about the Veterans Administration. We are going to see fewer soldiers coming into the system, and health care is going to cost less.

Well, there's not a person in America that wouldn't take the bet the sun's not going to rise tomorrow before they would take that.

So, in the President's bill here, under the President's current piece of legislation, not only will we not add the 9 million American children who aren't covered, and I would like the President to go by and decide which one of those faces gets coverage and which one does not in this Nation. If he chooses to go with his piece of legislation, asking us to compromise, he is going to cut 840,000 children who are currently on the program off. We're not talking about even maintaining the program. We're talking about undercutting it. And under our bipartisan congressional bill, 3.8 million additional children will receive their coverage.

So you can see the difference here. When we have compromised, when Senator GRASSLEY, Senator HATCH, when 69 Senators on the Senate side and 265 Members of this body and over 70 percent of the American public say this is a good piece of legislation, we have done our compromising. It is now time for the President to decide that he is not the sole decider on this.

The American public has spoken on this, and it is time to do the right thing: cover our children, get them good preventative care, keep them out of the emergency rooms, keep them

healthy, keep them in school, keep them moving forward, and keep this Nation in a place where it should be.

With that, I yield to the gentleman from Iowa.

Mr. BRALEY of Iowa. I appreciate that and I thank the gentleman, and I think that the heading of the chart that you're standing next to summarizes what this really boils down to, because there's been a disconnect between what the President says about his commitment to children's health care and what his actions represent.

I'd like my colleagues who are here tonight to take a walk down memory lane with me, because many of us got our motivation to run for office as a result of the 2004 Presidential elections. And if you remember back with me to September 2, 2004, at the Republican National Convention, this is what our President George Bush said about his commitment to children's health care.

He said, America's children must also have a healthy start in life. In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible, but not signed up, for the government's health insurance programs, the very same programs we're talking about here tonight.

He begins again, We will not allow a lack of attention or information to stand between these children and the health care they need. That's what our President said as he stood on the brink of his second nomination.

Now, I want to take you back to what was one of the most memorable nights of my life, my first State of the Union address, which took place right in this Chamber, January 23, 2007. I sat in here with all of my new colleagues listening to the direction from our President on what he was going to do to lead us in a new direction on health care.

What did he say on this subject? When it comes to health care, government has an obligation to care for the elderly, the disabled and poor children. We will meet those responsibilities.

Well, his words don't mesh with his actions in vetoing this important legislation, and that is why it is important for us, on behalf of those children, America's kids, to stand up and speak out and say it's time to live up to the values that you have been talking about and deliver on the promises to insure America's uninsured children.

Mr. KAGEN. Well, I think you get it and I think the American people are beginning to understand that it takes officeholders with good judgment. People in Wisconsin have been writing to me and sending me postcards and e-mails, and I'll just quote from a constituent from Appleton, What is it with this country? Health care for the rich and those in government? The rest of us can just die or try and live with broken bones and illness.

I think the American people are beginning to understand whose side we're on and where we need to be going in this country. We cannot allow this veto to stand. It's morally unacceptable. It's bad for our business. It's bad for the health of our Nation.

We know from our studies that children, if they're healthy, well-nourished in the first 5 years of life, it sets them up for good health for years to come. We know that the developing human mind in the first 5 years is beginning to jell and form neuronic structures and connections that will help them all throughout their days.

We have to be kind to our youth and our seniors as well. Of course, I would like the original version of this bill, but things in this place aren't always the way we like them. We did compromise. This is a compromise bill. It's one that makes sense and is good for our health.

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We often tell ourselves that America is the greatest country on the Earth and it is the greatest country in history. Now it is time for us to live up to that expectation and to that level of greatness and protect our children, our children from age 0 to 5, they are forming, their brains are forming and they are going to develop attitudes and health characteristics that follow them their entire lives. We need to protect the least among us, those that are least able to defend themselves and protect themselves. We need to make sure that we give them the start in life that allow them to achieve great things and continue to lead our country into greatness, defend our liberty, to defend our ideas. And we start that with good health at the youngest age.

I yield back to my friend from Iowa.

Mr. BRALEY of Iowa. I want to thank you. One of the things that we rarely talk about is the human faces that Congressman KAGEN was good enough to share with us from our district. And I want to share a personal experience from my own life, and I think it illustrates the importance of what we are talking about here today.

About 15 years ago when my wife and I had our three children, who were all young and in school, my wife and I got involved through our church in a mentoring program at a city center school in Waterloo, Iowa where we lived. As a result of that, I started mentoring a young fourth grade student named DeUndre, and then I got involved in Big Brothers, Big Sisters as an outreach of that program and spent a lot of time with him and his family.

When he was in sixth grade, DeUndre started complaining of pain in his abdominal area, and he ended up going to the hospital and they diagnosed him with acute large cell non-Hodgkin's lymphoma. They did surgery to remove the tumor, and then he spent about 6 weeks undergoing chemotherapy in the pediatric oncology unit at the University of Iowa Hospitals and Clinics in Iowa City. And I was faced with a choice, because he had nobody in his family who could go with him and be there when he was going through that ordeal. And I made a decision after speaking to my wife that it was going to be me who was there for him. And I spent that time watching young children with IV drips in their arms receiving chemotherapy, no hair, going in and out of each other's room, taking care of each other and helping each other get through a very difficult time in their lives, knowing full well that many of those kids were not going to live to see their 15th birthday.

And one of the things that I learned from that is that people like DeUndre, who depended on Medicaid to provide for their health care, were lucky because they had the resources to get a diagnosis and treatment that saved their lives. Many of the kids we are talking about in these 10 million uninsured children are in that window between those who qualify for Medicaid benefits and those covered by private pay plans. And that is why it is so critical that we perform the role that we are talking about so that those children aren't stuck without the opportunity to get early intervention, early diagnosis, and early treatment of life-threatening illnesses and diseases. It does make a difference in the lives of these kids, and that is why we are here tonight talking about this important issue.

I yield back to my friend from Minnesota.

Mr. WALZ of Minnesota. I appreciate the gentleman's passion on this. And I think it is really critical to point out, the gentleman was bringing to notion of how SCHIP works, and we already had addressed the issue of the $83,000 question that we know is just plain misleading.

I want to mention, in this idea of where this health care is going to come from, who is going to provide it; and I know that one of the issues that most affects families, they don't care what kind of insurance it is if they don't have it; they simply need to get it. And one of the issues here, and this again comes from Senators GRASSLEY and HATCH, the fiction of this, that Congress by doing this, the congressional bill is a step towards government-run health care.

This is our Republican leadership in the Senate listing the facts. SCHIP is a leader in combining public-private solutions to provide health care coverage to uninsured children. The CHIP Reauthorization Act encourages a mix of public and private solutions to cover children and limits the scope of the program to the low-income, uninsured children Congress meant to be covered.

So this idea of perpetuating these myths first and foremost doesn't get us at the heart of this. The bottom line on this is, this is a wonderful mix of trying to deliver in that gap area.

Now, when we are talking some of these numbers that we are throwing around, 300 percent of poverty and those types of numbers; right now for last year, this is a family at poverty level, $17,170. Now, I would like to see

how someone can make that budget work. I can guarantee you that this body could not do it. And then at 200 percent of poverty is then the $34,340 as you hear some of these numbers coming up. So the President's claim that this is pushing children into some type of government-sponsored health care is simply not the case.

And the last thing I would like to do on this is that children who already have insurance, this myth has been out there and this is listed here. The fiction is Congress would move children with private insurance into government-run health care. The President reiterated that myth today at his press conference. The fact, according to Senators GRASSLEY and HATCH is, according to independent Congressional Budget Office, and the one thing I would like to make very clear is the President is totally entitled to his opinion; he is not entitled to his facts. And the Congressional Budget Office, which is independent, clearly states, the Congressional Budget Office: The rate of substitution of public coverage for private coverage or what is called crowding out would be lower under the compromise bill than it is under current law.

So the fact is, not only is this not going to happen, it is going to get better under this piece of legislation because the coverage will be there. So this idea of these myths, and when you hear the story of a young man who is facing these type things or a family that is going to take those type of decisions, and the President trying to tell the American public, well, this is for rich people, 94 percent of people falling in that 200 percent or lower that are on that are children. The President is saying it is those with $83,000; it is government-sponsored socialized medicine. We dug that word back out of the seventies, apparently. Or, it is going to force people who have private health insurance to take it on the government dole. None of those things are true.

I yield to the gentleman from California.

Mr. MCNERNEY. I want to follow up on what my good friend and colleague from Iowa said about being in the children's hospital and looking at children suffering with devastating diseases. We can think of this as sad, but if we look at that with the great spirit and hope that these young children are showing, we can find true inspiration. We can find true appreciation for the human spirit. But, we cannot let them suffer alone. We must stand together. We must come together for these children and give them the help they need to overcome these devastating illnesses and bring the kind of future that they will bring to our country and to the future of the world.

With that, I would like to yield to my colleague from Wisconsin.

Mr. KAGEN. I think that we are beginning to air out some of the smoke that has been filling up this chamber and some of the misinformation coming from the bully pulpit down the street. But I don't think that message of confusion is confusing anyone like Wendy and her 3-month-old baby Cassidy. Cassidy, the 3-month-old baby that she is holding, she doesn't understand health care. She doesn't think about having insurance. She is looking for her next meal. She is hoping that she has got someone there to support her, to help her out, to help lift her up through her early years, I am sure. And Wendy is working hard at $2.33 an hour plus tips. She is working hard. She needs a little lift, a little help along the way.

But I know that people in Northeast Wisconsin, because I've asked them: Look, I'm working for you. I'm your hired hand. Here is your hard-earned tax money. Where do you want me to spend your money, here at home on your children to guarantee that they are healthy, that they can see their own doctor, their own physician in their doctor's office and not in the emergency room? Or, do you want your money to be spent overseas in the sands of Iraq?

I yield to Mr. WALZ who has some data on what it is costing us per day.

Mr. WALZ of Minnesota. What I would like to talk about first is, and I said the good news in this is, this is a defining moment tomorrow. This is a defining moment, Madam Speaker, and my colleagues in this House, of what this body does to represent the American people. And if my colleagues who are undecided as of now want to know where the American people are at, the latest poll just came out from CBS News. This is the largest one done to date on this, and here are the factors: Would you favor the Democratic version of expanding SCHIP? Eighty-one percent of people in this country, in Iowa, in California, Minnesota, in Wisconsin, in Florida, in Georgia, across this Nation, agree.

Now, here is the real kicker. This is the part I think for us to listen and to hear this. They look at that picture. They see that little baby, they see that mother. And this Nation's heart is where it is at. They know exactly what we need to do.

They even went so far as to ask them a tough question. Keep in mind, under this new House leadership over the last 9 months, we have to balance the budget. We have to go by PAYGO. It is no more paying and letting the children in the future pay for it. That is not happening on this. So under this piece of legislation, they even asked people in this poll: Would you be willing to pay more taxes to expand to this program? Seventy-four percent said yes. Seventy-four percent of the American public is willing to give their tax dollars to help fellow American children receive the health care that they know they so richly deserve. And the issue of that is, is this Nation knows it is morally right, it is fiscally right, and it invests in the future.

I said we know this is an issue that the American people, as Dr. KAGEN illustrated, the physicians are with it. The groups that care about this are with it. The majority of Members in the Senate are with us. The majority of the Members of the House are with it. And we have an opportunity here. We are about 12 hours away from being able to decide and override this veto and show that the system works.

Mr. BRALEY of Iowa. One of the things we have been talking about is what this program would do that the President vetoed. But what we really haven't spent a lot of time talking about is what the President originally proposed, and what that would mean for existing children who are covered by SCHIP and would lose their benefit if the President's plan had been put in place. And when President Bush originally proposed his SCHIP proposal, it provided a $5 billion increase over a 5-year period, which wouldn't even be enough to maintain the current enrollment of kids under SCHIP.

I would just like my friend from Minnesota to comment about what we really haven't been talking about, and that is where the President stands when it comes to taking care of our kids.

Mr. WALZ of Minnesota. Absolutely. And this issue again comes back to the basic core principles of budgeting. I would just like to refer to the chart here for a moment.

Whenever you make a budget and whenever we sit down in this body, we have to determine what our values are, what our priorities are, put them in order, and pay for them accordingly. The President has indicated that this is simply too expensive, that we cannot do it. Now, to keep in mind, I want to give an illustration here. The cost of a day in Iraq in the war is about $33 million. To get an idea, that is about a quarter of a million children we could cover. For 37 days, just over a month of what this war is costing us, and this number doesn't include, by the way, soldiers' salaries nor the health care costs that, it was estimated in a hearing I was at today, are going to cost us somewhere in the neighborhood of $9 billion a year, probably stretching, with the total cost coming from CBO and the Congressional Research Service, to $1.3 trillion over the next 15 years. We could cover all 10 million kids.

So we have got a decision to make in this country, where we are going to put our resources, where we are going to invest, where we are going to see the future on this. And this is a simple decision. When the President comes to this body and will demand, cajole, just about everything you can think of and tell us why he is going to need $200 billion, of course he told us 5 years ago that it was silly when General Shinseki mentioned that this might cost $100 billion. Of course, General Shinseki was let go. He didn't agree with that budgeting. Or, that we might actually have to take care of more veterans. That is why we ended up short for the last 3 years taking care of our veterans.

So the President is going to say this is a budgeting issue. This is the same gentleman that did what the previous 42 Presidents could not do. He got us into a trillion dollars in debt to foreign nations. It took him about 60 months to be able to do that while it took 218 years for our previous administrations. This is the one who took a massive surplus under the Clinton administration and turned it into a massive deficit.

So the President's credibility when it comes to fiscal matters is pretty much zero. This Nation, 81 percent by the latest numbers, and possibly more, are saying, invest in the children, invest in the health care. Do what is right.

I yield to the doctor from Wisconsin.

Mr. KAGEN. I don't want anyone to mistake my position on this. I am not in favor of government-run health care. We don't need socialized medicine in these United States. We do have a VA system that was in disarray until we got here. This class of 2006 helped to save our military veterans' health care. We helped to save our active military from a condition that was deplorable. Everything that the President has said he was, he is not. He was not conservative. He spent us into the drink. It is borrow and spend, and borrow and spend.

But this discussion, really, is about our Nation's children. It is really about where we are going as a Nation and what kind of Nation we really, really are. From your report of the recent poll, the American people get it. And we are resonant to their message. We are listening to their message. We have got the judgment. But, my friends, people of the country have to understand that Cassidy doesn't have a murmur of a prayer unless we get in the next several hours, by tomorrow when we vote on this bill, another 15 votes from our Republican side. We have got the Democratic votes. We need our Republican colleagues to come on over, to understand that this is not about partisanship. We cannot separate the politics and the policy. We have to put them together. They have to be in harmony for our children to get the health care that they so richly deserve.

I believe in my heart that with good people thinking this thing all the way through; one of the problems we have had in this country in the last several years, we have had an administration that in my opinion doesn't think things all the way through. You cannot say ''no'' to Cassidy; you cannot say ''no'' to Kailee and the millions of other children that need our support in the next several hours.

I yield to the gentleman from California.

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Mr. MCNERNEY. We know the poll numbers are very strong, 81 percent. We know the financial numbers are very strong. But this isn't about polls. It's not about money. It's about our responsibility, living up to our responsibility as Americans to our children.

We know that we can send a man to the Moon. We can make technology. We can produce the best art, the best science, the best music, and, yes, we do have the very best health care services in the entire world. So let's extend some of that service to the ones among us that need it the very most, the poorest children, Cassidy and her daughter, the children that cannot afford it that need health care to get through those first 5 years of life.

So let's come together. I urge my colleagues to come together to do the right thing and to vote in a bipartisan way to override this misguided veto and pass the Children's Health Insurance Program.

Mr. WALZ of Minnesota. Well, I thank the gentleman, and I'm encouraged. I'm encouraged by the number of Members of this body that understand this issue. I'm encouraged by the willingness of our friends on both sides of the aisle to come together. I'm truly encouraged by the leadership of Senator GRASSLEY and Senator HATCH working on this.

I'd like to bring up one more point on this of fiction versus fact, that I think this is one of the, maybe the meanest spirited part of this. And something that gets brought up, and unfortunately all too often is brought up, this idea of scapegoating or trying to mislead the way the public, it obviously is not working very well with the numbers coming out of the latest poll, but this idea that somehow a nonlegal resident of this country, an illegal immigrant would be eligible for this. I don't know how many times we need to state this. But I think that, Madam Speaker, that those of us in this body owe it to one another to be very, very clear when we state this.

The fiction part says that the compromise bill would allow illegal immigrants to get SCHIP. Here's what our Republican leadership in the Senate has said. ''Section 605 of our bill states the following: Nothing in this act allows Federal payment for individuals who are not legal residents.'' Anything to the contrary, if I would go back to the beginning, is simply misleading or, at worst, is an absolute attempt to distort or to be dishonest about this.

This is not, and I reflect back with each of my colleagues here. This is not a Democratic bill. This was a bill that was crafted under a Republican House and Senate and a Democratic President. It is a good piece of legislation. Our 43 Governors across the country support it. Numerous organizations that you have heard about, ranging the spectrum from the American Medical Association to the Easter Seals to the Cancer Society, to AARP, you name it and they're there. This is a good piece of legislation. And if the American public wants to understand how close this is or if, Madam Speaker, if you'd like to check with the Members of this body, there needs to be about 25 Members of this body switch where they're at on this issue. That's all we're asking for, to switch them. We've got them to compromise on that. We get these 25 people, and all of a sudden we're looking at 10 million children getting the care that they can.

Decisions are big around here. There's repercussions for your decisions. There's repercussions on the American public understanding what this body's job is supposed to do. And by all accounts, and each of us hear it, the American public, I would be willing to bet, it would be very difficult to find any issue that 81 percent of the American public agrees on, and this is the issue.

So tomorrow we have the opportunity. The President can choose to see if he wants to see his veto upheld. The Members of this body have the opportunity to make a difference.

So, Dr. KAGEN.

Mr. KAGEN. Mr. WALZ, I thank you for yielding. And I'd like to share with you, my colleagues, one of the lessons I learned as I left my medical practice and entered the world of politics to become a candidate and now Congressperson here in Washington.

I used to think it was doctors and nurses that really determined who would live and who would die. But really, it's politicians like you and I. It's politicians that will determine whether or not Cassidy has access to health care that she requires. It's politicians that took us to war based on lies and deceptions. It's politicians that have to get over the fact that they're not going to get a political donation from a child. The children don't have a voice in this body. We have to stand up and speak for them.

One of those people, not a child, from Marinette, Wisconsin, wrote to me this: ''I'm a single person but I can't afford medical insurance unless it has a very high deductible, and then it's still expensive. I have many medical problems, and cancer runs in my family, but I can't afford tests or treatments because I don't meet requirements for free checkups.''

You know, my friends, it's not just about children. This bill is focusing on the health needs of our children.

Later in this session, and next session, we will also take up the cause to guarantee access to everyone. Every citizen in this country deserves the right to see their doctor, their doctor when they need it. And I believe, in my heart, that we'll come around to get these 15 votes to override this veto and begin to change America.

We have to begin to think differently in this country and solve our problems by getting together, by working together and building a better future for everyone. It has to start tomorrow, in my opinion, and the opinion of many people throughout the country. It has to start now, right here and right now by caring for those who are most in need, our Nation's children, on whose future we all depend.

And I yield to my colleague.

Mr. BRALEY of Iowa. Well, I wanted you to yield for a question, because I

think a lot of us remember those old Fram Oil commercials where you can pay me now or pay me later. And as a physician who's taken care of children, as a physician who got referrals from primary care physicians, one of the things we're always concerned about in this body is the long-term cost of health care as we move forward as a Nation and how we're going to be able to afford health care for every man, woman and child in this country.

But what I'd like you to talk about is what impact it has on our long-term health care costs when people like Cassidy don't get access to the primary care, they don't get early diagnoses, they don't get early treatment, they don't get early interventions that allow us to nip those problems early on before they turn into catastrophic illnesses where the cost is greatly escalated.

And because of your background, I would ask my friend from Wisconsin if you could enlighten us about what that means in a practical setting.

Mr. KAGEN. Well, when an attorney asks me a question, I have to give a short answer, yes. You're right. In more detail, and quite seriously, every study that's ever been performed has proven that preventive health care, that disease management, saves money and saves lives. In diabetes it saves limbs. If you have a diabetic that is more under control, with their glucose maintained within a normal range, you gain longer life, less kidney failure, less heart disease, and your limbs, the circulation in your limbs, your lower extremities, in particular, are maintained. Diabetes is one example. In asthma it's yet another.

Several years ago, 5,000-some children and adults would die from asthma attacks in this country, and with a disease management program, we've reduced the hospitalization rate of children with asthma.

Asthma is the number one cause of hospitalization for children. Asthma is a very common illness today. It's in epidemic proportion in our major cities. Where, in our major cities? Well, there's lower poverty rates in our lower cities. And it is our Nation's children who are in low-income stratas that are developing allergy and asthma much more frequently. They need preventive health care. It saves money and it saves lives.

And to think of it a little differently, we can lower the taxes of every town, of every city, of every State in this country by having children that are healthy. By investing in the health of our children, we can lower people's taxes. This just hasn't sunk in yet. It will some day, if we fail to cover our children's health care.

And I yield.

Mr. WALZ of Minnesota. Well, I think the two gentlemen make excellent points on this. It's about having a vision. It's about understanding investment.

I would argue it has sunk in, Madam Speaker, to 81 percent of the country. It simply hasn't sunk in to another 25 Members of this body that will start to get that.

I want to give just an example here, a couple on this. This idea that the President's going to decide again, and the claims that came up here and, of course, the chart we talked about where the President's going to cut back on numbers, we have a situation now where we have children uncovered. The President is going to decide. Now, our bill is going to get us to the number we want to try to get to. The President is going to say, no, there's not enough there to get that. Well, he calls himself the decider. So Madam Speaker, I'd like you to think about this, and I'd like Members of this body to think about this.

Who gets coverage? Which one of these families gets coverage? You decide. Some aren't going to if you get the President's way. Our way makes the decision pretty easy. Cover the children.

How about the Wilkerson family from St. Petersburg, Florida?

''This is personal not only to us but millions of parents,'' said Bethany's mother, Dara, in a telephone interview.

''Dara Wilkerson said Bethany had to have heart surgery in 2005, when she was 6 months old, after doctors told them she'd been born with two holes in her heart and a valve that didn't close. The Wilkersons said their annual income was about $34,000 from their jobs, and they couldn't afford private insurance, and it wasn't offered to them. But even if they could, Bethany had a preexisting condition. The heart problem she was born with made enrollment in private plans impossible, her mother said. Thanks to Florida's version of SCHIP, the State Kid Care Program, Bethany gets the care she needs and has recovered and is a healthy, happy little girl.''

The President can be the decider. Does Bethany and her family get the coverage or not? It's his decision.

How about the Spaeth family from Kentucky?

Tonya Spaeth will give birth to a baby whose health care is the subject of a contentious debate on Capitol Hill. For the Spaeth family, such matters go far beyond a political debate. The baby's two older siblings have spent much of their lives in Kentucky's version of KCHIP, which insures 51,000 uninsured, low-income children who don't qualify for Medicaid. The Spaeths pay $1 or $2 for prescription medication and a $20 monthly premium. Mom and dad both work, but are absolutely unable to afford private insurance, which would run about $400 a month. So you want to throw them off? We can see what they did.

How about the Mackey family from Memphis, Tennessee? When Barbara Mackey's sister sent her an e-mail earlier this year about Tennessee's new CoverKids health care, she jumped at the chance. CoverKids is making a huge difference, said Barbara, who earns less than $20,000 a year as a bookkeeper at a church daycare center. The center offers health insurance to employees but not their dependents. Barbara said three of her four children were covered under the TennCare health insurance program for the poor, but lost coverage when the State ruled that the family's income was too high to qualify. So do you want to throw off Barbara Mackey and her children?

The list goes on and on and on. So the decider is going to be able to make a decision. We, as the deciders of the people's will, the 81 percent of people who agree with this, the 74 percent who are willing to give up their hard-earned dollars to help invest, as we heard our good colleague from Iowa and from Wisconsin say, this is a good piece of legislation. It's bipartisan. It's well vetted. It's ready to go. It passed both Chambers. It was vetoed. And tomorrow we're going to have the opportunity to set that record straight. And I look forward to this vote. I look forward to standing on this floor with my colleagues and proudly casting that vote, knowing that this Nation's priorities are straight. This Nation's priorities are right. This Nation's commitments to its children are unwavering.

I yield to the gentleman from Wisconsin.

Mr. KAGEN. Let me share with you just one such story of a patient of mine; actually, her children were my patients, and Jenny was a single mom with two young asthmatic children. And they were in my office by referral from their physician, and I made a diagnosis. I wrote some prescriptions for each child. I said, ''Hey, I'll see you in a month, and they'll be doing fine. They'll be back in school. They'll get the education they need. They'll be healthy.''

A month later she came back in with her children and these children were still wheezing. You know me pretty well; I'm right to the point. I said, ''Well, you know, Jenny, this medicine works pretty good if you put it in their mouths.'' And she was sitting next to me and she took up her purse and opened it up and took out the very same prescriptions I had given her a month earlier and put them on my counter. And she said, ''Well, Dr. KAGEN, I don't have the money to put it in their mouths. I took your prescriptions that you gave me to the pharmacy. I stood at the counter. I could see the medicine, but I couldn't afford to put it in their mouths. What are you going to do about this? How can you help me? How can you help me?''

Well, I stood up and said that's it. I've got to run for Congress. I can't change health care by becoming mayor of Appleton, Wisconsin. I can't change health care by going to be a Governor in the State House because we can't fix health care. This is a national crisis. You can't fix it State by State. Insurance companies are hiding behind State lines.

So I came here to work with you. As you all came here, so did I, to bring our country back to the basics. We have to get back to the basics in this country. And I'll just echo, not just what my patients have been telling me, but everybody along the parade routes, everybody I meet at the grocery store, everywhere I go, people say this: ''Hey, KAGEN, I want my country back.'' They don't just mean a border that they can see. They don't just mean having a President that will obey the rule of law. They mean they want their morals back. They want their standing, their country to stand up tall and say we care about our children and we're willing to invest in their future.

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This is Jenny's story, and I bring it to you and I share it with the Nation. We cannot turn our back. We cannot say no to Jenny. We cannot say no to Wendy and her children. They are working hard. These are hardworking people. The 47 million people that don't have health insurance today, two-thirds of them are hardworking people. They simply don't have the money to pay an insurance company for what benefits they may or may not get if they have insurance.

But this bill just makes sense. It's good for our Nation's health. It's good for our business. It's paid for. It's pay-as-you-go. Where do you want to spend your money if not on your children and their future?

I yield back to Mr. MCNERNEY.

Mr. MCNERNEY. Thank you very much.

I would like to ask a rhetorical question. What gives you the most joy in life? And the answer, of course, is your children.

You go to the mall. You are walking down. You've had a hard day. You see a child. You bend over, you talk to it. It brings a smile to your face. You're walking down the street in your neighborhood. A young mother comes along with a baby and cart. It brings a smile to your face.

And it's not just the United States of America. It's a worldwide phenomenon. People love children. They love to dote on their children. They love to spend money on their children. They love to do everything they can to give their children the best possible future they can.

So why can't we come together on a bipartisan basis and give our children the health care they need to be productive citizens in this country, in this world.

And that's a rhetorical question that I will leave with the gentleman from Wisconsin.

Mr. KAGEN. Madam Speaker, it's not such a difficult question to ask, Whose side are you on? Are you on the side of Cassidy and her mother, Wendy? I am. I know my colleagues are. Whose side are we on? We will answer that question tomorrow.

Mr. BRALEY of Iowa. Madam Speaker, we have talked about the human face of this problem, and I just want to briefly talk about the numbers that affect a single congressional district.

In my district, the First District of Iowa, 7,000 children are covered by the Children's Health Insurance Program. In the State of Iowa, there are currently 37,000 children who benefit from this program. This bill will allow 26,400 additional children to have the benefits of health care. But if we don't act, 37,000 children could lose the opportunity in my State to have the type of coverage we're talking about.

And one thing we can't do is we can't turn our back on those kids. We can't collectively fail to have that smile from doing something right that we all believe in, taking care of the most vulnerable people in our society, making sure they have their basic needs met. That is a responsibility we all have as parents. That is a collective responsibility we have as a Nation to the children of this country. And when we come into this Chamber every day, that should be the foremost thing in our minds: providing basic needs and making sure that they are met and empowering people to meet those needs on their own.

So with that I want to thank my colleagues for joining us here tonight.

Mr. WALZ of Minnesota. I thank my colleagues. I thank you for your passion. I thank you for speaking out for those Americans and speaking out especially for those that are least able amongst us, the children, the children of those that are not as advantaged.

It doesn't happen often, but tomorrow we are going to get the opportunity. You hear a lot of politicians talk about family values. Tomorrow they are going to get an opportunity to cast a vote that really will affect family values. That ability to put that smile on that child. That ability to take that child in and give them the preventative care necessary to see that child grow up and be a productive member of society.

I am proud to be prepared to cast this vote to override this veto with my colleagues.

Mr. KAGEN. And together we will.

SCHIP AND EARMARK REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the minority leader.

Mr. GINGREY. Madam Speaker, I thank my leadership for allowing me to lead the time during this next hour. And my intention, Madam Speaker and my colleagues, is to talk about something that is hugely important in this town, in this body, and across this country, and, of course, that is the issue of earmarks.

But, Madam Speaker, before I get to that, I couldn't help but hear my colleagues on the other side, the freshmen Democrats, who just spoke about the SCHIP program. I will say this, Madam Speaker: they spoke well. They spoke in a very articulate manner. I commend them for their sense of presence in this body. They are all doing a great job.

But, Madam Speaker, talking about overstating and being over the top on some of the comments that were made that I just heard over this last hour listening to my colleagues, it's amazing.

The gentleman from Minnesota was critical of the President, overstating the issue of the SCHIP program in regard to covering children from families up to 400 percent of the Federal poverty level. I don't necessarily argue with the gentleman over that point. But then the doctor from Wisconsin went on to make a comment, and I think I am accurate in quoting him. He suggested that the Commander in Chief, the President of the United States, went to Iraq over lies. Then he went on to say that the country needs more than a President who refuses to obey the rule of law.

Now, you talk about overstatements and embellishing and really getting entirely off the subject. So I just want to remind my colleagues, let's do indeed stick to the facts.

The facts, Madam Speaker, in regard to the State of Wisconsin, my good friend, the good doctor, the allergist from Wisconsin, I would quickly point out to him that in his State, he showed that picture, that kind of heart-rendering, tugging-at-your-heart-strings picture of the mother and child, the mom, Wendy, and the child, Cassidy, and sort of making his point that we need to expand this SCHIP coverage by 140 percent to cover 6.4 million children that we are covering under the current program, but to increase that to over 10 million children.

Well, not only that, Madam Speaker and my colleagues, but the gentleman from Wisconsin, in his State 66 percent of the people that are covered under the SCHIP program are the Wendys, not the Cassidys. Mom and dad that have maybe one child that are in that income bracket, 100 to, I think, in Wisconsin it goes up to 180 percent of the Federal poverty level. Not only are the children covered but the parents are covered as well such that in that State, 66 percent of the total people covered are adults, not children at all. And Wisconsin is not the most egregious State, Madam Speaker. There are a number of others.

The State of Minnesota, the gentleman from Minnesota was leading the time. I think probably 70 percent in Minnesota are adults.

And if my colleagues want to come down, I will yield to them if they want to dispute those figures and we will talk about it. I would be proud to have them interrupt me and get in a colloquy, in fact, about this.

So I am here tonight during this Special Hour, Madam Speaker, to talk about earmark reform, and we will get to that. But I think this is just really

important because this is a historic vote tomorrow. This is a historic vote. And colleagues on both sides of the aisle will have an opportunity to say do we want to reauthorize a good program, you might say even a Republican program with Senators like Senator HATCH back in 1997 when this program was started. Not an entitlement program, Madam Speaker, no. Not an entitlement program. A block grant lasting 10 years, spending about $1 billion a year on the program to cover 6 million children. And, yes, we Republicans, we fiscal conservatives, and the President of the United States have a compassion, and we understand that Biblical phrase ''suffer the little children'' that the Speaker likes to use over and over again in trying to make her point.

But we want to make sure that we cover those children that have the greatest need, those children between 100 and 200 percent of the Federal poverty level. And there are almost 750,000 to 1 million of those kids, those children, in those families who have fallen through the cracks. The States have not done a good enough job of finding them.

Madam Speaker, I am very, very proud of my State of Georgia. I represent the northwest part of that State, District 11. We have lots of children in this program. In fact, in Georgia we are covering about 280,000 children. And we still are missing a few. But they are not children and families making 300 percent of the Federal poverty level. That's $63,000 a year. And if you allow that, as this new Democratic expansion does, as a matter of routine, and then you also say not only do the children, each child in that family, one, two, five, whatever, but their parents also get coverage, well, that's why I'm just trying to make this point.

I love my colleagues on both sides of the aisle. These four freshmen Democrats are outstanding Members, and they speak very well, as I said. They just speak facts that are not factual and they embellish their points, and I think that the truth needs to be told on this.

The truth is that we in the minority now, we want to expand this program. We voted for the continuing resolution so that it did not expire. We will vote to sustain the President's veto tomorrow because we don't need to raise the spending, Madam Speaker, on this bill 140 percent and cover 4 million additional children.

I think it was Mr. WALZ from Minnesota who had this nice poster showing the amount of money that we spend every day, every month in Iraq trying to defeat this Islamic extremism, to fight this global war on terror, and saying that, well, you know, if we had 37 days' worth of spending in Iraq and Afghanistan that we could use on this SCHIP program, we could cover 10 million additional children, give them health care, dental care, Cadillac coverage. Well, he is right about that. There is no doubt we could. And what good would that health care coverage for those children do if some Osama bin Laden look-alike came into this country and blew them to smithereens?

So let's get our priorities straight here, my colleagues. Let's get our priorities straight. We need to protect the children. We need to protect the adults. We need to protect hardworking men and women in this country and not let 3,700 of them be slaughtered in a 20-minute period of time, in the blink of an eye, because we were not willing to defend this country against global terrorism and Islamofascism.

So this is not a matter of either/or here. And, again, numbers are great. You use your statistics and you make your points. But I hope, my colleagues and Madam Speaker, that I have made my point well in regard to priorities. So let's get this real. Let's sit down with the Democratic leadership. The President I know will do that after we sustain his veto.

Hopefully, there will be some Republicans, Madam Speaker, at the table. Our colleagues keep talking about the bipartisan bill and they keep saying Senator GRASSLEY and Senator HATCH. Well, okay, Senators GRASSLEY and HATCH. But we have got, I think, 47 other Republican Senators in the other body. And, yes, they may have a few Republicans on this side who they have scared into supporting this massive expansion.

But we don't need to do that. The President can sit down with, hopefully, our leadership, both Democratic and Republican. Minority rights here. Let Mr. BOEHNER in the room. Let Mr. BARTON in. Let Mr. DEAL in. Let our ranking members from the Ways and Means Committee, Mr. MCCRERY, let them in the room too and sit down with the President, with Democratic leadership, with the Senate, with the Republican Senators. I'm sure they will be there.

And say, look, we made a proposal. Initially, the President said we are going to expand this program 20 percent. You say it's not enough. All right. Well, let's get to the table. Let's leave our guns at the door, if you will, Madam Speaker. And maybe it does need to be a 35 percent increase, possibly even 40 percent. That would increase this program over a 5-year period of time by $10 billion. But not $35 billion when what you cover in those additional 4 million children are those whose families are making a pretty darn good income at $63,000 a year and they are already on a health insurance program, a private health insurance program. But, Madam Speaker, wouldn't you, if you got the opportunity to drop your private coverage for your kids and those monthly premiums, say, Manna from heaven, we're now going to get on the government public trough? Wonderful. Wonderful.

□ 2000

And I go back to that, talking a little bit in response to, again, my physician colleague, I think most of my colleagues know that that was my profession, too, before coming to this body. But the doctor from Wisconsin was showing those pictures, that picture, again, of Wendy and Cassidy. Well, Wendy, if she needs public coverage for her health care, should get it under the Medicaid program. But guess what? The State has to pay more under the Medicaid program, significantly more, probably, I would guess that that's absolutely true in Wisconsin, than on this SCHIP program. So it's a better deal, obviously, to cover her under SCHIP than under Medicaid if she had a waiver, if Wisconsin had a waiver, could cover her income level. You see my colleagues, you get it? This is simply a matter of fact, the truth. Maybe sometimes the truth hurts, but connect the dots here, connect the dots.

Mr. Speaker, I don't think the Democratic leadership wanted to give the President a bill that he could sign because there's a lot of politics in all of this. And there is always, well, you know, ''these cruel Republicans.'' These cold-hearted, they don't care about the children. They don't care about the veterans. They don't care about the hardworking men and women of this country, so let's stick it to the rich.'' And of course the rich is anybody making more than $75,000 a year.

So, Mr. Speaker, it wasn't my intention to talk about this, but I think you can see, my colleagues, that the previous hour kind of stirred me up a little bit, and I wanted to get the facts out there. Because this is a historic vote tomorrow, and I plan to vote to sustain the President's veto.

Mr. Speaker, my main purpose tonight in this hour, and I think some of my colleagues will be joining me a little bit later in the hour, is to talk about something that I can talk about in a very, very bipartisan way, and that is, the need for earmark reform. This problem with earmarks, a lot of people say that's the reason, that's part of the reason. Maybe there are two or three things that you can point to, I won't spell them out. I think most people understand that we lost our majority. ''We,'' I'm talking about now the Republican Caucus. We had the majority in this House for 12 years, and in November of 2006, obviously, we lost it. And a lot of people would say, the political pundits and folks back in my district, the Republican base, you guys, why in the world did you not rein in spending? You know, you had an opportunity, you had a Republican President, you had control of both the House and the Senate. Of course, control of the Senate, I think the Democrats are finding out right now that control of the Senate by two votes doesn't get you very far, and of course that was certainly a problem for us in the majority. But it is without question, in my mind, that this prolific spending really caused us some serious problems at the ballot box. And some of it has to do with these so-called ''Member initiatives,'' earmarks, a lot of people just flat out call it ''pork.''

So, I think it's a problem. Clearly, it's a problem. The American public perceives it to be a problem; therefore, it is a problem. And if you ask people in red States or blue States, they'll tell you the same thing: It's not right.

Now, there are Members who will stand up here and very staunchly defend Member initiatives. They will make the argument that, well, each Member, 435 of us, 100 in the other body, knows our people, knows our State, knows our district, understands what the needs are. People come to us, whether it's a school or county or city government or an individual entrepreneur that's got a new product that can save the lives of our soldiers injured on the battlefield, and that's a good thing, that's an appropriate thing for us to point out. Maybe the departments that we fund in this $933 billion discretionary spending pot that we divide up among all these different agencies and departments of Federal Government, that they can't know, they can't get into each and every State, although they may have regional offices. So, it's good, it's good that Members, Mr. Speaker, are able to bring that to the attention of the appropriators and make a request and get what's called by the general public and by the watchdog groups ''earmarks'' or ''pork.'' We like to refer to them as ''Member-directed initiatives.''

And I'm a little bit torn about it. I do believe that Member initiatives can be a very good thing if Members do the right thing and there is no quid pro quo in regard to trying to grant a favor, if you will, for a constituent for a worthwhile, needy project that would ultimately help everybody, not just a very narrow group of people.

But this system, Mr. Speaker, has really gone amuck. Now, I've only been here 5 years; I'm in my third term. Have I asked for Member initiatives for the 11th District of Georgia? Absolutely, Mr. Speaker. Indeed, I have done that. I have learned how to do it, not nearly as successfully as some of my colleagues. Some people are absolute experts at it, but we all kind of learn the process. It's not part of our orientation, by the way. If it was such a good thing, it seems like they would include it in the orientation manual for new Members. But you just kind of learn this on the slide. You know, you talk to your senior colleagues who have been around here for a while and you find out how the system works. And so, you do. And I like to feel that I can shine the light of day, Mr. Speaker, on every single one of those Member initiatives that I've asked for; certainly not gotten them all. In fact, the ones that I have been granted, usually it's far less than the request. So, we've been doing this for a long time and we've talked about reforming it for a long time.

When we were in the majority, Mr. Speaker, and I say ''we.'' You and I are Members of this body proudly, but I'm talking about ''we'' the Republican Members. When we were in the majority, I think we finally recognized that something needed to be done and we tried to put some sunshine on the process. And we said, look, at the very least, let's make sure that when Members put these projects, these earmark projects in a bill, not just the appropriations bill, but also an authorizing bill, or maybe a narrowly drawn tax bill, all those tax bills, of course, originate in the House through the Ways and Means Committee, but if it's a tax advantage that affects just a handful of people, that's kind of a special deal, that's a special favor, and that has to be justified.

So, we recommended in our ethics reform package in the 109th Congress, let's make sure that all of those Member initiatives are written in the bill and in the bill's report. And it specifically says who the Member was making the request, from what State, what the project is, how much money is going to be spent. And that particular earmark could be challenged by another Member. Another Member, during an appropriations vote and discussion, a Member could stand up and say, ''I have an amendment to strike such and such an earmark.'' I would hope that Members would do that in a bipartisan way and that Democrats wouldn't just attack Republican earmarks and Republicans attack Democratic earmarks. If you're truly sincere about the process, you would look at it without any view of whether the earmark has an ''R'' or a ''D'' behind it, Mr. Speaker, and you would challenge it on its merits and then would have an up-or-down vote. That's good, that's a good thing.

Unfortunately, Mr. Speaker, when the new majority took over, that language in earmark reform was changed such that it's not required that the light of day shine on earmarks and authorizing bills or tax bills, just in the appropriations process. But that's not enough, that's not enough.

In the next few minutes I want to talk about something that I have introduced, a bill that I think would take us a lot further down the road toward, if you will, Mr. Speaker, cleaning up this process.

Now, I'm going to ask our good, young page who is here tonight, as they always are, working hard for us late at night, to bring the easel up. I've got about three posters, and I want to share some quotes with you. But while he's doing that, Mr. Speaker, I see that one of my colleagues, my classmate from the great State of New Jersey, I believe that's the Garden State if I'm correct, is with us on the floor. And the gentleman I'm talking about, Representative SCOTT Garrett, is also my colleague on the Republican Study Committee, and I thank him for joining me tonight.

At this time, I would like to yield time to Mr. GARRETT.

Mr. GARRETT of New Jersey. I thank the gentleman for yielding time.

I want to begin by just complimenting one, two, three people. First of all, compliment Dr. GINGREY for having this session here on the floor tonight to bring this very important subject once again to the well so that we can have this debate, have this dialogue to address an issue that the American public is rightfully concerned about.

Secondly, and I'm sure Dr. GINGREY will agree with this, we should always applaud the gentleman from Arizona, JEFF FLAKE, who has been, let us say, the ''voice in the wilderness,'' if you will, for a number of years when it came to earmarks coming to the floor, repeatedly, time and time again, before you and I were even in Congress, bringing this to the attention of the Members from both sides of the aisle, trying to shine that light of day. Unfortunately, the process was not such that the information was going out. He did it sporadically, at best, because he had to literally go through the bills page by page to try to gather the information. And when he did, he would gather those infamous examples that he would then bring to the floor, outrageous examples, and try to get a majority of Members of either side of the House to support him in deleting those egregious earmarks. Unfortunately, in nine out of 10, actually, it's probably more like 99 out of 100 examples, he didn't get the support that he deserved.

And the third group of individuals that I think we should applaud is the American public, because they have been rightfully outraged from the very start, as soon as the information began to come out of this House, as to where their tax dollars are going. The American public saw that their hard-earned tax dollars that they work every week and send in their taxes to the Federal Government, to Washington, D.C., are going to absurd things: the rain forest in the central United States or ''bridges to nowhere'' and that sort of thing. It is only, I think, because their outrage has gotten to such an extent that Congress, especially from the other side of the aisle, the Democrat majority, is finally beginning to listen. And you and I also agree that they have not quite listened well enough because they have not brought through the sunshine and the adequacy of information that you and I would like to see and that the American public would like to see.

So I just want to start off by saying, let's applaud those and give credit, yourself and JEFF FLAKE and the American public, where credit is due.

I know you're about to talk about your proposal, so maybe I will cut my comments to a couple here because I would like to maybe discuss your proposal in detail so we can flush it out. But let me just raise this one point, and I think this is probably a good segue for where you're going to go into this.

When it comes to earmarks, when you think about earmarks, it is right to say that they are really a very small part of the overall expenditure of the

Federal Government. Unfortunately, I think some Members and lobbyists also spend, unfortunately, a disproportionate amount of their energy and time attaining those earmarks. I don't think that's why they sent us to Washington, to spend so much of our time trying to slice out a small percentage of the budget to bring back home.

We know that some Members probably spend more of their time than others. We also know that some Members have been more successful than others in bringing home those earmark dollars in perhaps a way that some would argue is not the most equitable and fair way. And I think that's what your bill will get to, to provide a more equitable and fair distribution of dollars.

□ 2015

How is the money being spent right now? Well, I understand that the average House Republican receives approximately $8.7 million on average in earmarks. I think that is an average as far as described as being a mean, or median, as opposed to a mode, when it comes to averages because some of them are considerably less and some of them have considerably more. The average Democrat, though, remember the Republican is $8.7 million, the average Democrat receives $10.3 million in earmark funds. And you have to scratch your head and think, where is the fairness there? Just because someone lives in a Democrat district, he may be a Democrat himself or he may be a Republican, is he more worthy? Did he pay more taxes that he is going to get more dollars coming into his district? Conversely, just because someone lives in a Republican district and he may well be a Democrat, as well, why is he being shortchanged? He is receiving on average a couple million dollars less.

Now, I said a moment ago those are averages. Some are lower. I don't know where you or I stand on those numbers. But some are considerably higher than that. The Speaker received some $67 million in earmarks in the last go around, and then there, of course, is the very cream of the crop, the very top, appropriations cardinal, Congressman MURTHA, topped the list at over $179 million in earmarks to his district. $166 million were in defense earmarks. Someone suggested that when you are collecting and spending $166 million, you are no longer just a congressman, you are now a CEO of a mid-sized company at that point. Of course, the interesting thing there is you are a CEO of a mid-sized company that has been bankrolled by the taxpayers of the country. That is something that we should focus the light of day on: Why are some people being treated better than others just by who they are, what positions they hold and what ranking positions they have in various committees.

I think your legislation will possibly try to address those issues. And if it does, and as I understand it does adequately, it will go a long way to providing the equity and fairness that the American public has been seeking and has been outraged that we have not been providing them in the past.

I would like to touch on some other points as far as really the scope of where earmarks go and some of the other things we may need to do, but I think this is a great segue into what your bill is able to address, and I yield back to gentleman at this time.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from New Jersey. I hope he will be able to stay with us throughout the hour because I do want to segue back and forth with him as we delve more deeply into this issue. But at this point I want to ask my colleagues on both sides of the aisle tonight, focus on these three charts, posters, if you will, that I've got because I think this is so telling in regard to why I said, at the outset, when we started talking about this problem, that this is bipartisan. This is a bipartisan problem. It needs a bipartisan solution.

When we were in the majority, maybe doing the exact same thing, business as usual in regard to what the gentleman from New Jersey just pointed out, and in the way these earmarks are handed out with sort of, first, if you are one of the fortunate 65 that sit on the Appropriations Committee, whether you are in the minority or the majority, especially if you are in the majority, you get a much, much, much, much bigger bite at the apple, the earmark apple, than some rank-and-file Member on either side of the aisle that is part of the ''obscure caucus'' that sometimes we refer to. That is not right. That is absolutely not right.

Listen to what Ms. PELOSI, the minority leader in the 109th Congress, said, and I think she was absolutely dead on right when she said it. Here is the quote, Mr. Speaker, ''If you are going to have earmarks and you are going to have transparency, you have to do it in the appropriations bill and in the tax bill, and in the authorizing bill. I would put that in writing.'' That is a quote from the gentlewoman, the distinguished current Speaker, then minority leader from California, Speaker PELOSI, minority leader at that time. She made that statement in September of 2006, exactly September 7. I guess campaign season. That was a good thing to say.

I think the public paid attention to it. I think it might have helped the Democrats regain the majority as they now enjoy in the 110th. I don't know what has happened with the Speaker. Right now, the minority leader, JOHN BOEHNER, the gentleman from Ohio who has been in this body since, well, I don't know when. He is still a young man. But he has never asked for an earmark. Do you think it is because Ohio or his district doesn't have the need? No. I think he thinks or he feels there's too much temptation for quid pro quo and corruption and he works very diligently to try to get through the regular process of applying for grants and helping his district know how to do that, that that is the better way.

Well, he has dropped a bill in this Congress, in the House, to do exactly what we tried to do under the Republican leadership, Mr. Speaker, in the 109th, do exactly what Madam Speaker PELOSI said on September 7, 2006. Do you know where that bill is? It is buried. It could have a hearing. It could be brought to this floor. Gosh, we could do it this Friday. That was another pledge that the Democrats made, Mr. Speaker, that we were going to work 5-day weeks and I bet you we will be leaving here on Thursday night. Heck, we could bring this bill up. The leadership just has to agree to do it, and we could be voting on this very issue on Friday. But, no, it is buried. It hasn't seen the light of day. So we Republicans, maybe hopefully some like-minded, good Democrats, maybe the Blue Dog Coalition, maybe the Congressional Black Caucus who is sick and tired of getting the short end of the stick in regard to this earmark process would sign that discharge petition and let us get 218 signatures so that we can immediately bring that bill that Ms. PELOSI recommended to the floor. That seems pretty straightforward to me. Let's do what she asked us to do.

Mr. Speaker, the next line is another quote from our now current Speaker, and she said this, if she were to become Speaker in the next Congress, PELOSI said she would press to severely reduce earmarks. And this is a quote. That was what the reporter wrote in the Wall Street Journal. But this is a quote that the current Speaker gave to him. ''Personally, myself, I would get rid of all of them,'' she says. ''None of them is worth the skepticism, the cynicism the public has and the fiscal irresponsibility of it.'' That was in the Wall Street Journal.

Yet, Speaker PELOSI, she herself is on track to take home $100 million this year in the earmark member initiative category.

That just astounds me. That just astounds me. What she said here, my colleagues, is so true. ''None of them is worth the skepticism, the cynicism, the public has.'' Now, Mr. Speaker, I want to ask my colleagues to pay attention to an article that was written today, USA Today, quick read, easy read, Wednesday, October 17, front page, should have been above the fold, below the fold, but here is the byline on this article, my colleagues: Timing of Gifts Stirs Earmark Debate. And then the subtitle: Donations Made After Funding Added to the Bill.

Now, Mr. Speaker, I want to read the first paragraph. The article is short, but I am not going to read the entire article. But this is what it says in the first paragraph:

''Days after a Senate committee approved $1 million for a Woodstock, New York, concert museum, the project's Republican billionaire backer and his family contributed $29,200 to help the

Democrats who requested the money, Senators Hillary Rodham Clinton and Charles Schumer.'' A $29,200 contribution from this billionaire and his family. Within the limits? Sure, within the legal limits. I am sure it probably was him, his wife and his kids, adult children who are permitted to make contributions. Maybe Senators CLINTON and SCHUMER have leadership PACs and they can get $5,000 a chunk to those PACs.

Then the article goes on and says:

''It's neither illegal nor unusual for contributors to benefit from congressionally directed spending known as earmarks, but the timing of the June donations is grist for critics who see a link between legislative pet projects and campaign money.''

Now, I am going to tell you, I don't want to say that that is the proof of the pudding, but it is mighty suspicious. And I don't think it passes the smell test.

I am not being overly critical of these two Senators. The problem is on both sides of the aisle in both Chambers. What really called my attention to it, Mr. Speaker, was an article about a month ago in CQ Weekly in the title, the front page, Playing the Earmark Game and How It is Done, and how certain Members get, as I pointed out earlier, a much, much bigger bite at the apple. I will tell you, my colleagues, you know this. I hope the American public knows it. It is going to be members of the Appropriations Committee. It is going to be the party leaders, possibly on both sides of the aisle, or it is going to be Members who have had a tough election in a very competitive district, and we run it every 2 years and they are going to have a tough reelect, be they Republicans or Democrats, and, therefore, those Members are going to be granted a lot more. Mr. GARRETT talked about the average of $8 million. Maybe those are the ones that get $25 million worth of a bite at the apple so they can appear to be doing more for their district. They are a great Member, so let's reelect them. They are bringing home the pork. They are bringing home the bacon.

But you know what happens with that process, Mr. Speaker, and there are several articles in this magazine. This one is titled, Gaps Along Racial Lines. What happens to Members of this body who may be from minority majority districts or Latino districts or inner city districts and they easily get elected. They are very popular in their district. So they don't need any shoring up to get reelected. So they get maybe $1 million instead of $8 million, and somebody else, some powerful Member gets $180 million for their district. That is flat wrong. Because, Mr. Speaker, those Members that I just described, whether they are members of the Congressional Black Caucus or the Latino caucus or they represent a rural district in Georgia, they have 670,000 people that they represent, and they have poor towns and poor counties and poor school systems that need the money, that need the project, and they don't get it. It goes to the fat cats. That is just flat wrong.

We are going to try to change that. Some Members think that the solution to this problem, Mr. Speaker, is a nuclear option, and that would be to totally eliminate all earmarks tomorrow. No more earmark Member initiatives and we stop all this temptation that any Member could fall prey to, any Member, including myself.

□ 2030

So I can concur and understand that feeling that we might need to completely, totally stop the earmark process. But then, again, many Members have pointed out to me that, you know, Congressman, we don't mind putting our earmarks out there for the light of day, we don't mind them being challenged, but don't take them away from us, because we are doing it right. Don't ruin a process that could be good because there are a few rotten eggs in the basket. I understand that argument as well.

My proposed legislation, and I appreciate Mr. GARRETT from New Jersey still being with me because I want to yield some time to him and get into a colloquy about the bill, Mr. Speaker, but what it does is this. It says, look, in 2006, the high water mark of earmarks, when $29 billion worth of discretionary spending, about 3 percent of the overall discretionary spending was earmarked by House and Senate Members, well, let's do this in my bill. It says to cut that amount by 50 percent.

Mr. Speaker, that is also almost a Pelosi quote. What was called for by the Democrats when they were in the minority trying to seek the majority, let's cut these earmarks by 50 percent in one fell swoop. So that is what my bill does; it cuts that $29 billion to $14 billion. Then you do a little arithmetic, not calculus, but a little bit of arithmetic, and you divide 535 into that $14 billion number and you come up with a figure of $27 million. The bill says no Member, no Member from Pennsylvania, no Member from California, no powerful Democrat, no powerful ranking member, no appropriator, nobody who needs help propping up them for the next election, nobody can get more than $27 million worth of earmarks for their district.

Now that doesn't mean they have to take them. If Members like Mr. GARRETT and Mr. FLAKE and Mr. BOEHNER and Mr. HENSARLING and a total of 12 Republicans stand strong on principle and say that earmarking is wrong and I want to say that my $27 million should go back to the taxpayer and subtract that number from the 302(A) allocation, as we call it, that is some real money. The first thing you know, you might have 100 Members doing that, or 300 Members on both sides of the aisle saying ''I want to end this process.'' That opportunity is there. The money wouldn't be spent by somebody else.

Mr. Speaker, but, on the other hand, if a Member had something that they felt very strongly about, whether it was a road project or repairing a bridge infrastructure, obviously the State of Minnesota knows what I am talking about, or widening a port so that these large container ships can come in that are now going to be able to come in through the Panama Canal, there's merit. So a lot of Members would say, you know, I really need this. Maybe one year $15 million; possibly the next year, the max; maybe the next year nothing, in which case the taxpayer would benefit from that as well. That is what this bill is all about. It's about putting some fairness, restoring some integrity to the process, and also controlling spending.

Mr. Speaker, my thinking on this is really twofold, controlling spending, and also ending this climate, if you will, of corruption, where Members on both sides of the aisle, and I don't think there is a Member of this body that comes here without a great deal of integrity and honesty. I don't believe they could look people in the eye in their district and get elected. It is hard to get elected to the Congress, to the House or the Senate. I think people come here with good character. But I think, unfortunately, the process will adversely affect a few. We can name some bodies that are littered and strewn about this place, that actually some of them are now spending time in the Crossbar Hotel, as my dad used to say.

So this bill, I think, would help. It would be a great start; not just a little move, but a fairly draconian move. A lot of Members are not going to like it. I have already begun to accumulate cosponsors, and every day we get several more, and hopefully this is something that we can accomplish.

Mr. Speaker, I would like to yield back to my colleague from New Jersey (Mr. GARRETT) at this time for further commentary.

Mr. GARRETT of New Jersey. Mr. Speaker, I appreciate the gentleman for yielding.

Mr. Speaker, as I sit here, and here we are in October, the question that always first comes to my mind is 10 months into the 110th Congress under now the new Democratic control, and what has that 10 months wrought: the largest tax increase in U.S. history, the creation of a budget by them with slush funds where there's no accountability; and, finally, the lack of transparency that was promised to us. That last point I think is what Dr. GINGREY is talking about here this evening. I am glad to join him to illuminate that issue a little bit more, the lack of transparency.

The Democrats ran the election of last year saying that there was not enough transparency and openness in the prior Congresses and that if they were elected and put in a position of power, they would bring that transparency, the openness, the sunshine, if

you will, to this floor. That is what they campaigned on. That is even, as Dr. GINGREY says here with the charts, the quotes from Speaker PELOSI, what they promised even after they came into a position of power. Of course that has not occurred.

Mr. Speaker, some who may be listening to us here right now say why didn't the Republicans do this when they were in charge? The fact of the matter is, as you may recall, we did. We did pass legislation in the 109th Congress to bring transparency to reform the earmark process. Unfortunately, not all those reforms were carried over with us into the new 110th Congress, and, I should add, some of the changes that have occurred in the 110th Congress only came about because of people like Dr. GINGREY, JEFF FLAKE, and other people, JEB HENSARLING from the RNC, coming to the floor and compelling and forcing the additional reforms that we have seen so far in this 110th Congress.

Let me just make this point. In earmarks right now, and it only applies basically to appropriation bills, which of course you have already spoken as far as the discharge petition, but in the rules of the House right now you would think that the American public would have the information now at hand that they have been asking for all along: Who's sponsoring the earmark, what the earmark is for, and how much money that earmark is allocating. You would think that is the case because that is the reform we compel the other side of the aisle to implement.

Well, they passed the rule, but they are not implementing the rule. What they did was quite clever. You take a piece of legislation that can be literally this thick, as far as a bill is concerned, an appropriation bill, or even thicker than this as well, and that information is in here, who sponsored it, how much it's for, and what the project is, but it's not in one place. Instead what they did was put it in two places. So you go to one page where it has the sponsor's name and the project, then you go 100 pages later on and there will be the project and the amount.

Now you have to search through literally thousands of pages, thousands of lines, and to put the two together to find out that, well, Congressman MURTHA, for example, had this particular project in his district. You have to spend literally hours and hours and days and days to put it together to get that number that we gave before, $166 million in Defense Appropriations.

I commend ''Congressional Quarterly'', because that magazine did spend the time to put together that data and has published the report, and it was an outside organization that actually did much of the spreadsheets on that. Finally, the American taxpayer has that information, no thanks to the other side of the aisle, because they put it together in a convoluted and basically in an orchestrated manner to make sure that the information they were required to reveal to the American public was presented in a way that you could not see it.

The proposal that you are presenting to us tonight is a good one. I believe it is a step in the right direction, and I think the gentleman from Georgia would agree that it is a step in the right direction, and that we can even eventually, if we can get this step done, we can go even further, as you illustrated, to get even more information and to rein this in even further.

Mr. GINGREY. Mr. Speaker, reclaiming my time, yes to the gentleman's question in regard to maybe this being a good first step, and almost a giant step, not a baby step.

Mr. GARRETT of New Jersey. I didn't mean to say it wasn't a good first step.

Mr. GINGREY. And we should go further. But I would tell my colleague, Mr. Speaker, that in a way it is analogous, and forgive me for using medical analogies, but I spent 31 years of my adult life doing that, of trying to wean someone off heroin, a drug addict. Mr. Speaker, you can't do that cold turkey. It would kill the drug addict, so they go through a detoxification process, if you will, and that is not a pretty thing to see. Then they are gradually weaned off and switched over to a drug called methadone. It is a heroin-like substance, an analog. It can take sometimes a couple of years, even when a drug addict is cooperating and wants to be cured of their addiction.

I think I am not overstating it. I don't think I am embellishing here when I say this Member-initiative earmark process has become an addiction. I truly believe it has. And it is tough. So to cut it in half in one fell swoop and put caps on it, and, as Mr. GARRETT, the gentleman from New Jersey pointed out, shine the light of day on it so that you can see it and you can find it, obey not only the letter of the law, but, for goodness' sake, obey the spirit of the law and not make it difficult for watchdog groups or other Members or John Q. Public to look in the CONGRESSIONAL RECORD or read these bills and find out what is in there.

So there is no question that Mr. GARRETT is right, that after we get this done, go through the detoxification process, if you will, we will then try to wean this body off of this process, because I think we ultimately need to do that.

I yield to the gentleman.

Mr. GARRETT of New Jersey. Just a point that comes to mind. One of the issues that we will be dealing with this week is SCHIP. There is a piece of legislation you wouldn't think would be prone to earmarks. If you listen to the other side, they would tell you, hey, there are no earmarks in there.

That is one of the peculiarities of the rule, the way the Democrats have written it as far as providing transparency. All you have to do is take your bill, that could be chockfull with all of your favorite pet earmarks from the cardinals and the chairmen of your committees and all your other friends, and the ones requested by lobbyists and what have you, and all the Democratic majority has to do is say, we hereby say there are no earmarks in here, and that is it. You and I can come to the floor and rail about it all we want and say, yes, there are. Look at page 72, line B. Here is an earmark.

That is exactly what happened with the SCHIP legislation. They said there are no earmarks here. Lo and behold, there are. There are literally billions of dollars in earmarks in that going to special projects and special hospitals across the country, and you and I would not know about it if we were just to trust them and take them at their word.

Mr. GINGREY. Mr. Speaker, I thank the gentleman. As we talked about earlier in the hour, as we are approaching the culmination of our time, this earmark that is described in the USA Today on the front page talks about $1 million for some Woodstock museum.

Some of us who grew up in the deep south who remember reading about Woodstock and seeing the video clips were somewhat appalled about what went on there, Mr. Speaker, so I am sure that that would be an earmark that Mr. FLAKE or Mr. HENSARLING or Mr. GARRETT or myself would like to stand up and say, I don't care if it is to some billionaire Republican making the request, and then the next day writing a check in the aggregate of $29,200 to the two Senators from New York. Maybe that is within the legal rights to do that, but it sure doesn't pass the smell test.

That is where we are. I have talked to my colleagues about, well, how could we possibly take this a step further, those colleagues who really agree with me that this process is totally out of hand, and maybe phase out earmarks over a 3- or 4-year period of time.

□ 2045

Obviously another way to approach it would be to say drop a bill that says we totally eliminate, or drop a bill that says we are going to have a 1- or 2-year moratorium. I could support either one of those.

But if Members still feel very strongly that a Member-directed initiative done correctly have merit and value, then the bill, I think, I am presenting will put some fairness into the process.

I yield to my friend.

Mr. GARRETT of New Jersey. None of these things, as good as all these ideas are, are going to happen unless the majority party, the Democrat Party, Speaker PELOSI agrees they are actually the right thing to do and are willing to move the legislation.

Your bill that would move in the direction that the American public wants us to move, to rein in excessive spending, to rein in earmarks, to put a clamp or a lid on them, to move in the direction of moving them out entirely

or at least scaling them down, will not move unless the Speaker, Speaker PELOSI, says that is a good idea and she will post the bill.

The legislation that you spoke about at the top of hour regarding the discharge petition that the Republican leader has that would expand earmark information to not just appropriation bills but also to authorizing legislation, to clean up some of the areas that have given them the latitude to actually continue to hide this information from the American public. That piece of legislation will not move unless the Democrat Party and Speaker PELOSI finally hear from the American public and realize this is what the American public wants us to do and wants us to move that legislation.

It is still early in the evening. It is only a quarter of 9. I am sure Speaker PELOSI is in her office or somewhere in the Capitol as we speak. I would invite her to come to the floor right now and join us with either one of those pieces of legislation. Maybe you could recite the words right back to her that she said some time ago, and remind her of what she said when it comes to the issue of giving transparency and openness. I would invite her to come to the floor and join us in this debate this evening, to say she will move these, will move these things in the next days, weeks. Just before the winter holiday so when we leave here in the next several weeks or months, they, we can say in the first session of the 110th Congress we finally gave the American public what they were promised when the Democrat majority came into Congress. I will eagerly await her arrival here.

Mr. GINGREY. The gentleman is exactly right. The Speaker could say forget about Minority Leader BOEHNER's discharge petition, we are going to bring it up under regular order. We are going to do the right thing. We are going to do what I, Madam Speaker, said she would do in September of 2006.

Mr. Speaker, I appreciate the opportunity to be here tonight and I thank the gentleman from New Jersey (Mr. GARRETT) for taking this hour and to say to colleagues on both sides of the aisle, I think most of my colleagues would agree, even though I had to rebut the four outstanding freshmen Democrats that had the previous hour regarding the SCHIP program.

I think most of my colleagues would agree that I am not a real partisan Member, and I enjoy comity. That is the way I think it should be. But we have a problem here in River City, whether it is Republican leadership or Democratic leaders.

Mr. Speaker, I truly believe that the party, if it becomes partisan, the party that will take hold of this idea and pledge to the American people that we are going to do something about it once and for all, and as Mr. FLAKE has said to me often, it is one thing to air out our laundry, but we need to clean it. We don't need to just air it, we need to clean it up. I agree with him completely. Again, I think the party that will adopt that or fight for it is the party that either deserves to keep their majority or regain their majority.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. SPACE). Under the Speaker's announced policy of January 18, 2007, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to address the House. My good friend, the gentleman from Georgia (Mr. GINGREY), we have traveled together and served together. I want that chart that he has. I keep asking him for it. About how when Democrats take control, pork barrel spending is cut in half. I appreciate it. I am glad for his accuracy.

It is so good to serve with my colleagues up here in Washington, D.C. I am here with my good friend, Congresswoman WASSERMAN SCHULTZ. Our districts neighbor each other in south Florida. We have been good friends for a long time. We are here tonight part of the 30-Something Working Group.

Mr. Speaker, as you know, we come to the floor once, twice, and when we can three times a week to share with Members issues we are working on here.

We want to make sure that all of the Members are fully aware of what is happening in Iraq. As of today, October 17, 10 a.m. report, there have been 3,824 deaths in Iraq. The total number wounded in action and returned to duty is 15,604. The total number of wounded in action not returning to duty is 12,674.

We want to make sure that is not only a part of the CONGRESSIONAL RECORD, but that every Member of Congress understands the sacrifice those who are in harm's way are making. And those of us who are policymakers, that we make sure that we take the appropriate steps to do away with that number continually going up on a daily basis.

Mr. Speaker, I want to turn it over to my colleagues that are here, but tonight I just want to take a point because the President today had a press conference. We did some good things. We gave out a Congressional Gold Medal today, and the President decided to release a press release driving over to the Capitol here.

It was very interesting. In his statements he said that the 110th Congress, Democratic-controlled Congress, whether it be House or Senate, they need to go to work. That is interesting because I have record-breaking information here. We have taken more rollcall votes than any other Congress in the history of the United States of America. We are working 5 days a week in many cases. We have deaths or what have you. We have to pause for that. And national holidays and religious holidays that need to be recognized because there is sensitivity towards that.

But I can't understand, we start talking about going to work. Let me read down the list of things we have done. The 9/11 Commission recommendations, all of them, to protect America from terrorism, passed. And the President said he wasn't going to sign it, but the American people pushed him and said they wanted to be safe, and he finally signed it.

The largest college aid expansion since 1944, the GI bill, saving the average American $4,400. The President said he would never sign that bill. Because of the hard work of Members that voted for that bill, and these are bipartisan votes. I want to make sure that those who are paying attention to what we are saying here on the floor, those Members and Americans, that they understand this is not a Democratic message, this is a bipartisan message on behalf of the people of this country.

The minimum-wage increase which raised the minimum wage for some 13 million Americans, passed and signed into law. The President said he wasn't going to sign that, but it was such a good piece of legislation. People wanted it to happen for many, many years. We said we will not allow the Members of Congress to receive a pay raise until we give the American people a pay raise.

Innovation agenda to promote 21st century jobs, passed and signed into law. All of this was signed into law at like 7:30 on a Friday evening as the President is leaving to go to Camp David.

Again, tough lobbying and ethics reforms that many of the independent reform groups are so happy that finally passed off this floor, through the Senate, and signed into law.

Reconstruction assistance for the gulf coast disaster hurricanes, never would have happened, Mr. Speaker, if it wasn't for the push of this Democratic Congress. Actually, I remember when they had two amendments that came to the floor, one to give assistance to the victims of Hurricane Katrina and Hurricane Rita, and one to continue the funding for the war for 3 months, they came in two amendments, never would have happened if it wasn't for a Democratic-controlled Congress pushing it through.

Expansion of life-saving medical research stem cells, passed on a bipartisan vote, vetoed by the President. Okay.

Again, health care for 10 million children and working families, passed by a bipartisan vote. A bipartisan vote which tomorrow, and we are going to talk about that here tonight, the Senate has the votes to override the President and there are some Republicans that are saying that they are going to take that vote. We have a problem here in the House because we don't have some of our friends, and I do mean some of our friends because some of our friends on the Republican side of the aisle are going to be voting with Democrats. Not with Democrats, but just to

vote on behalf of children in the United States of America. We are falling eight or 10 short of those votes. I want the Members to be aware of that.

The largest veterans increase in the 77-year history of the VA passed this House and we are still waiting on it to make it through the process and hopefully the President won't veto that.

Landmark energy independence and global warming initiative, that is something that is very, very important. Also, we have other pieces of legislation that are out there.

Actually since the partisan politics started, not partisan, but some of the folks being partisan on this, 45 that we had last time of Republicans that joined Democrats on that bipartisan vote, so that's not 10, that's not 15, that's not 20, that is 45 of our Republican colleagues that, because of the Democratic leadership bringing it to the floor, knew it was a good idea and voted on behalf of their districts.

With that, I want to make sure, just in case someone gets confused about that issue, because we are going to talk about SCHIP. We are going to do a hard push on SCHIP because this is about children's health care, and it is very, very important.

I yield to Ms. WASSERMAN SCHULTZ.

Ms. WASSERMAN SCHULTZ. Thank you. It is wonderful to be here with my good and long-time friend, Mr. MEEK of Florida, and our relatively new friend, Mr. ALTMIRE from Pennsylvania. I have to tell you, Mr. ALTMIRE, it has been such a pleasure to have the 41 new freshmen Members of our Democratic Caucus join us in being able to move this country in a new direction. It has really injected a vibrancy, a new vibrancy, an energized vibrancy, into our caucus. You guys are fresh from the campaign trail, as Speaker PELOSI always talks about. You came with stories from the grass roots and talking about things that people in America care about.

Oftentimes what happens in this institution here, we get a little stale and crusty. When we are all making, many of us, policy thousands of miles away from our constituents. Myself and Mr. MEEK, we are a thousand miles from our constituents. You are a good 2 or 3-hour drive from yours. Mr. MURPHY is a little further than that. It becomes easy to be desensitized to what the real needs and concerns are. We get wrapped up in how important Congress supposedly is, and that is when it gets dangerous.

That is what happened to our friends on the other side of the aisle when they were in charge over the last 2 years. They were engulfed by a culture of corruption. They really engaged in the priorities of K Street and the priorities of the wealthiest people in America instead of the priorities of the average working family, and that is what SCHIP is all about. That is what the Children's Health Insurance Program is all about. It is about getting basic health care, not to people who make a lot of money, not to people who have private health insurance as the President has said who would supposedly drop it if they were suddenly eligible for SCHIP, but for people who are the working poor, the people who fall in the huge gap that exists between not qualifying for Medicaid and not being able to afford to buy either the insurance that your employer provides you or buying it on your own.

So what that means is that if you don't have a children's health insurance program that your child is eligible for and that your child has access to, then you are using the emergency room as your primary means of health care. So I am so glad we had the infusion of energy from your class, Mr. ALTMIRE and Mr. MURPHY, so we could make sure we could pass bipartisan legislation like the Children's Health Insurance Program.

Mr. MEEK referred to the President's comments about how Congress needs to get to work. Again, it is funny. It is humorous. It is actually sad. I joined Congress in the 109th Congress, the term before Mr. MURPHY and Mr. ALTMIRE, and a couple of terms after Mr. MEEK. We were in session in the 109th Congress a total of 89 days.

□ 2100

Now how many days are there in a year?

Mr. ALTMIRE. 365.

Ms. WASSERMAN SCHULTZ. Okay. And I actually don't know how many of those 365 days are weekends. So, you know, if you discount those, I can't really calculate the math that quickly, but just a couple hundred, right, couple hundred days, and we were in session for 89. It was a record low for the history of the Congresses. We were known as the do nothingest of do nothing Congresses.

So I think the President needs to take a look at history, maybe open a history book, maybe open a book, and take a look at what actually goes on here in the 110th since Democrats took control versus what was going on for the last 12 years.

We're about making sure that we get the America people's priorities in focus: children's health insurance; making sure that we can focus on alternative energy sources; making sure we can expand health care for more individuals; truly end America's addiction to foreign oil; recognize that global warming is a problem and not just say that it is and do nothing. We want to make sure that the future is really bright for the American people.

Mr. ALTMIRE. I wanted to talk a little bit about what the President said today as well, and he focused his remarks in large part on the SCHIP vote that we're going to take tomorrow in this House. This, as we speak, is the day before we're going to take a vote on whether or not to override the veto that the President put forward on a plan that passed with overwhelming bipartisan support from both Houses. Sixty-seven Members of the United States Senate and 265 Members of the House voted for the SCHIP bill, bipartisan.

And one of the things the President put forward today and has said in the past as well, we need to compromise; we need to come together. Well, I would say to the President, Mr. Speaker, that we have, in fact, made substantial compromise. We have come together as Republicans and Democrats. We put forward a bill in the House. The Senate put forward a bill. We conferenced a bill. We came to an agreement that passed with overwhelming support among both parties. We sent it to the White House, and the President, as he certainly is able to do under the Constitution and is his right to do so, he vetoed the bill, and we're going to have a vote tomorrow on whether or not to override the veto.

But don't pretend that this was not a compromise piece of legislation that took weeks and months to hammer out the details and to work together with Republicans and Democrats alike, voting to support this piece of legislation that enjoys 70 to 80 percent approval in the country according to recent polls.

I wanted to talk a little bit about what the President said were his problems with the SCHIP bill, and one of the things that he continues to throw out there as well: this is socialized medicine; this is a big Federal Government program that's a movement towards Big Government health care. And that just could not be further from the truth.

Let's take a look at what the SCHIP program is. This is a capped block grant. The money is capped from the Federal level. It's sent to the States and the States carry out the program. It's a State-administered program, and almost every State in the country contracts out their SCHIP program in the private health insurance market, in the private market. So this could not be further from the big Federal Government takeover of socialized medicine scheme. It's administered in the private market.

We could spend our entire hour here tonight listening to groups that have endorsed this bill, but for the purposes of refuting what the President says, I would point to the health insurance industry in this country, which is certainly never going to support anything that's remotely close or a movement towards federalized health care, socialized medicine. They support this legislation, as does, as Speaker PELOSI often says, everyone alphabetically from the AARP to the YWCA. This has overwhelming support around the country, overwhelming support among Republicans and overwhelming support among Democrats.

So, again, the President's welcome to veto this bill. He's able to do so, and he exercised that right, but let's be truthful about what's really in this piece of legislation.

He talks about how it affects families making up to $83,000. Well, what are

the facts behind that claim? Where did that number come from? That comes from the fact, as I said, this is administered by the States, and I would welcome my friend from Ohio, Mr. RYAN, as well, who has taken a break from watching the Cleveland Indians tonight.

We have $83,000 as 400 percent of poverty. There was one State in the country, New York State, applied for a waiver. Four hundred percent of poverty they wanted to cover. That waiver was denied. It did not take effect. No other State in the country does it.

Mr. MEEK of Florida. I would like you to just yield for a minute because, as you know, in the 30-something Working Group we always enjoy seeing our friends come by, and the majority whip came to the floor, heard we were talking about children's health care, and thought he would just stop by and share something with the Members, and I yield to him.

Mr. CLYBURN. Mr. Speaker, I want to thank the 30-somethings for allowing me to intrude on their discussion here this evening.

I think that tomorrow when we come before the American people to take a vote on whether or not we ought to override the President's veto, it's a very important program. I think it's important for the American people to think about a couple of mischaracterizations that have gone on concerning this program.

First of all, we are hearing our friends on the other side call this Children's Health Insurance Program some kind of step towards socialized medicine. I find that very strange that when the President came before the American people, asking for a second term, at his convention, when he accepted the nomination, he called for an expansion of the Children's Health Insurance Program, and I think we ought to ask ourselves how can a program be socialized medicine for 10 million children but it's not socialized medicine for 6 million children. I think that it says something about the commitment that the President made to the American people and to his own party at his last nominating convention.

Second mischaracterization I think that the American people ought to really think about, and that is the accusation that this Congress, our party, the Democratic Party is ignoring poor children by pushing this program. The fact of the matter is lower-income children will have an opportunity through Medicaid. That's there now. It's been there for a long time.

SCHIP was not designed for that purpose. This program was designed as middle-income relief, relief for middle-income families, for families whose children are in need of health care, but their incomes are a little bit too high for them to qualify for Medicaid but not high enough for them to be able to afford the health care that they need in the private market.

So I think that tomorrow, as we get ready to say to the American people exactly what our values are, I think that the people who are planning to vote to sustain this veto ought to ask themselves what is it that I'm doing, and I think that what they will be doing would be denying health care, denying to children, they will be denying relief to the middle-income families who work every day trying to make ends meet, but while they're trying to feed their families, to provide for their educations, to shelter them, they do not have enough left to afford the kind of health care that they need.

So I want to thank you all for highlighting this program this evening, and I know that for the 30-somethings it may not be all that important now but for us 60-somethings, this is a mighty important program for our grandchildren, and thank you so much for allowing me to intrude this evening.

Mr. MEEK of Florida. Thank you for joining us.

Mr. ALTMIRE. It was great to hear from one of the true giants of this House, the distinguished whip from South Carolina, Mr. CLYBURN. Thank you for joining us tonight.

I was talking about this $83,000 income level that the President continues to throw out there, and it's factually inaccurate. It's just completely false.

As I was saying, the history of it is New York State, one State in this country, applied for a waiver, attempting to reach the 400 percent of poverty level. That waiver was denied, never took effect. Those families were not covered, but the President uses that as his example of what could happen if we put this legislation forward.

Well, the reality is, as under current law, it doesn't change in our bill; it would have to be approved. Any change in income up to that level would have to be approved by the administration. So if the President did not want to see any State move forward, he would say that that is denied, as it was denied when New York State tried to put that forward.

So to say that the $83,000 figure is the reason for his veto is just factually inaccurate, at least using it as an example.

Importantly, the bill that we passed limits the Federal matching percentage and gives States a strong disincentive for going above 300 percent of poverty which would be about $62,000. So the States have a strong incentive to not even attempt to go above 300 percent of poverty; and as I said, it's inaccurate for the President to say that that's the reason for his veto.

So I'll continue a little bit later on that, but we're joined by Mr. MURPHY from Connecticut, and I mentioned earlier that Mr. RYAN from Ohio has been watching the baseball playoffs. Well, unfortunately, Mr. MURPHY from Connecticut is on the other end of that.

Mr. MURPHY of Connecticut. We needed an off night tonight. We got an off night from the playoffs. So those of us that wallowed in the Boston defeat are glad to have a little separation to let our team regroup and rethink how they're going to approach this.

It's rare that we have five members of the 30-somethings here. As the two new Members here, I want to make sure we understand our place. So I'm going to be very, very brief and just say this: To add on to all the great reasons why we should do this, this is reaching out to families that have done everything that we've asked them to do; they're playing by the rules. They simply can't afford insurance in a market in which in a State like Connecticut you're going to pay $8,000 or $9,000 out of pocket before an insurance company picks up dollar one for the average family plan that you look at on a lot of these insurance programs.

It's the right thing to do because it saves money in the long run because you're getting preventative care to the kids that are going to end up sick and in the hospital later on and end up costing the system way more money because you didn't invest in prevention and end up paying for crisis care.

I think it's also important to note that this bill is paid for. This bill is part of an effort here in this Congress to advance some of the most important programs in the middle class. We're talking about health care programs, student loan programs, minimum wage and do it in a way that doesn't add to this enormous, unfathomable deficit that the Republican Congress put us under.

Let's just talk about the facts, because Mr. RYAN and Mr. MEEK especially talked about this over and over and over again on the floor here.

When the Republicans took control, they had a $5.6 trillion surplus that President Clinton left them with. They have now turned it into, along with this President, a $2 trillion 10-year deficit. The debt which started at the beginning of the President's administration at $5.7 trillion has ballooned to $9 trillion.

So our biggest task here is to make sure that we don't add to that just unbelievable amount of money that this country and every single citizen here owes, and guess what, we are able to do that, to pass a 5-year budget that's going to be balanced after 5 years, to pass a rule that mandates that we don't spend a dime of new money without accounting for how we pay for it. We're able to run the most fiscally responsible Congress that this country has seen in a very long time, while maintaining our commitment to expand programs that help the middle class.

That's what we have to remember when we talk about this SCHIP bill, the children's health bill, is that this isn't more deficit spending. This is targeted spending on people who need it, the middle class. It's paid for.

Mr. RYAN of Ohio. Remember the beginning of this Congress that we gave an opportunity for every Member of this House to vote against paying the

oil companies about $14 billion in oil subsidies, and a lot of our friends, who are now voting against the SCHIP for fiscal responsibility reasons, voted to make sure that we could not take that basically corporate welfare that we were giving to the oil companies. They voted to sustain basically that corporate welfare that was going to the oil companies.

But it's important for us to recognize that Members of the Republican Party, the same Members who were voting against SCHIP, voted against the Democrats pulling the money from the oil companies and putting it back into alternative energy, to health care, to education, all these. You had this opportunity to do this, and they refused to do it.

□ 2115

And to say now that you are going to draw the line in the sand, Mr. ALTMIRE, you are going to draw the line in the sand on children's health care after raising the debt limit, as the gentleman from Connecticut just mentioned, five times they have asked to borrow more money from China, from Japan, from OPEC countries. Now you are going to draw the line in the sand on children's health care?

Now, people are sitting at home saying, I don't know a whole lot about politics, Mr. Speaker, but my goodness gracious, you are picking this battle now on the backs of children. And I don't know, I didn't get to hear your whole argument on socialism. But my question is this. If everyone is saying that this is socialism, that this is somehow a socialistic step towards national socialized medicine, why are you negotiating it in the first place?

Mr. MEEK of Florida. And the good thing about the 30–Something, we really get into a conversation about this. And behind you, you can see, I will let you explain that chart there. But I want Ms. WASSERMAN SCHULTZ and I just to share a little bit. You say that everyone is saying that it is socialized medicine. That is not the case. Do you know who is saying that? The Bush administration. Do you know who else is saying that? Our friends on the Republican side that are not even thinking about health care. They are thinking about how I need to protect the GOP philosophy on Capitol Hill. Not in America.

Let me just read this here. CBS News poll that was taken says, and here the headline goes and you can go on, it says CBSnews.com. Don't believe me. You can go on there if you don't believe what I am telling you. This came right off of this sheet here: Do you favor or oppose expanding the children's health care plan? Eighty-one percent said I am in favor of it. I am in favor of the Democratic plan. And the headline goes: Most backed Democrats and kids health care fight. It says, those that oppose, 15 percent.

So, Mr. RYAN, when we look at that, we have to look at it for what it is worth. And I know Ms. WASSERMAN SCHULTZ has something from the USA Today. And I will yield back, but I want to share that with you, Mr. RYAN.

Mr. RYAN of Ohio. I just want to say, the argument that you are going to hear over the next day is socialism. As the gentleman from Florida just said, it is like, what are you talking about? Go in to private hospitals, private doctors, there is no question that this is privately administered. But here is the question. If we peel it back $1 billion or $5 billion, is that all of a sudden not socialism anymore? I mean, at what number do we get to where it stops becoming socialism and it starts becoming a private, some kind of health care system?

The arguments, the strawmen, the red herrings that have been put up on this debate are absolutely ridiculous. And I can't believe the President would draw the line in the sand and just have no arguments to back it up.

Mr. ALTMIRE. Let me add one quote to build on that, Mr. RYAN. This is from one of our Republican colleagues who seems to get this. DAVID HOBSON, a Republican, pretty reasonable.

Mr. RYAN of Ohio. From Ohio. A good guy.

Mr. ALTMIRE. Talking about the President, he said, ''I don't know who is advising him up there, but the President is really out of touch. It is too little, too late for him to be a fiscal conservative. He should have vetoed the farm bill. Now, he is against the SCHIP bill, and he wants $190 billion more for the war.''

So there are Republicans who get this. The President and a lot of these so-called fiscally conservative Republicans are Johnny-come-latelies on this issue. All of a sudden, after ballooning deficits and skyrocketing spending, now, when it comes to kids' health they are going to all of a sudden be fiscal conservatives. So it is nice; we are talking about this year's Democrats, but there are some Republicans who get that as well.

Ms. WASSERMAN SCHULTZ. Mr. MURPHY, Mr. RYAN, Mr. ALTMIRE, Mr. MEEK, we in the 30–Something Working Group generally try to make sure that the people that are able to listen to us, our colleagues, the Speaker, and anyone else within the sound of our voice, when we do these round robin conversations on the House floor we ask people not to take our word for it. We ask people to look at the third-party validators that we present on the floor and judge for themselves. We are presenting the facts here, not just making stuff up and talking in flowery sound bites.

Let's look at today's editorial in USA Today. What they said today about the President's veto and what action Congress should take tomorrow is our view on the children's health program. Bush Gives Bogus Answers to the $83,000 Question. That is the headline on the editorial. In summary, the main quote which summarizes the body of their editorial is that, ''Bush's claim is misleading at best, simply wrong at worst. The House would do well to look past the President's deceptive rhetoric and override his veto.'' That is USA Today's editorial from today.

We are going to cast this vote tomorrow, my friends, and people have a choice. When they swore to uphold the Constitution, at the same time we know that they made a commitment to their constituents to stand up for them; and that when you represent your constituents in government, you are supposed to do that and be there for people who don't have a voice. That is what this vote is about. It is who is for kids, and who stands with the President. It is very stark, very black and white.

Mr. ALTMIRE. I want to talk about that very point. The editorial that you held up hits the nail precisely on the head. If you are the President of the United States and you want to veto this bill, at least be factually accurate and honest about why you are vetoing the bill.

Mr. MEEK of Florida. Mr. ALTMIRE, I mean, factually, you said factually accurate? This whole administration is about misperception. It is about look right, we are going left. I mean, it is not about that. The good thing about it, Mr. ALTMIRE, is that you were elected and your colleagues were elected in this last Congress that brought about that paradigm shift. And that wasn't because it was something great that an individual did; that was the fact that the American people wanted to move in a new direction. Now we are moving in that new direction. We have the same game, but the Congress is changing, and we are not going to allow that to happen. And I am glad that the Speaker is saying, listen, we are going to insure 10 million children, period, dot, and we are going to stand there.

Ms. WASSERMAN SCHULTZ. The only thing I want to jump in on, Mr. ALTMIRE, is that the bottom line is that the track record of this administration is that generally the facts are not on the side of their argument, so they have to make it up. I mean, that has been their M.O. the entire, we are on 7 years now, their entire administration. When the facts aren't on your side, make it up. And just like Mr. MEEK has said repeatedly on this floor during our working group sessions, make it up and repeat it over and over and over again, and hopefully people will believe it is true. Only the people are on to them now.

Mr. ALTMIRE. We have had many 30–Something sessions on that very topic and a variety of issues. My point on the SCHIP bill and the veto override vote we are taking tomorrow is, if you are going to threaten to veto or you are going to veto the bill and justify the veto, be honest about why you are doing it. Just say, ''Look, I don't agree with expanding the program. I don't think this is a good program. I don't want to do it.'' That is his prerogative

to make that case. Don't say it is too expensive when it doesn't cost one additional penny, it doesn't add one additional penny to the Federal deficit. This bill is paid for. It doesn't add one penny. Don't say it is too expensive.

We talked about the $83,000 in your chart and the USA Today, and everybody who has looked at this knows that is a false statement, to say that this allows you to go up to $83,000 unchecked, and the socialized medicine that we talked about. Don't throw those out there, because they are not only not true, they are blatantly false. So don't say that is why you are vetoing the bill. Just say, ''I don't like this program. I don't want to expand it. I don't want to give health care to 10 million children.'' That is his prerogative to say that. That would be a more accurate statement than the reasons he is giving us to veto this bill.

We have four people who want to speak.

Mr. MEEK of Florida. Mr. RYAN wants to say something, but I want Mr. MURPHY to say something because he stood up and he likely had something he wanted to share. Ms. WASSERMAN SCHULTZ and I are always willing to share, because we have a whole notebook full of stuff that we are just ready to take off on.

Mr. MURPHY of Connecticut. I don't have notebooks; I just have loose scraps of paper. I haven't reached that level of organization of veteran Members like yourselves.

Let me talk about one more myth. There is not a bill that comes before this House, and you and I, Mr. ALTMIRE, are new here, so we are figuring this out as we go along. But there is not a bill that comes before this House that somebody on the other side doesn't scream ''illegal immigrants'' over. Right? That is just sort of the buzz word that accompanies every bill here.

We had a Native American housing bill before this House a couple of weeks back, and somebody on the other side filed an amendment to make sure that no Native American housing benefits went to illegal immigrants. Now, I know that we run our programs pretty inefficiently in this country, but you have to really mismanage the Native American housing program in order to give some of the housing to illegal immigrants.

So what they are saying on the other side is that this children's health care bill is going to go to illegal immigrants. Not true. Find me anywhere in that bill that allows for that. In fact, Mr. ALTMIRE, it doesn't even allow for those health care benefits as part of the SCHIP program to go to legal immigrants, people who have their papers, did everything right, are waiting to become citizens of this country. They can't get the children's health care program under this bill.

Mr. ALTMIRE. It is expressly prohibited under the bill.

Mr. MURPHY of Connecticut. It lays it out, black and white. So yet another example of if you say it over and over again and you hope that people believe it. As we have said over and over, the agenda here is pretty clear. Republicans and the President simply do not want this Congress to extend basic foundational health care rights to middle-class, to kids, and they are coming up with all sorts of crazy arguments that don't have truth, a strain of truth in them to try to stop them.

Mr. RYAN of Ohio. I just hope our friends who are opposing this bill to cover children's health care because of the cost of it, which we are paying for, will scrutinize the Iraq spending as it starts to come up over the next few weeks and few months. As we went over already, one day in Iraq, $330 million would cover 270,000 kids for a year for this program. That is one day. And if you go through 1 week, $2.3 billion would cover 1.8 million kids. And less than 40 days in Iraq would cover all of these kids that we want to cover, 10 million kids, for 1 year. Forty days in Iraq. And all we are saying is our priority is this.

Now, I just want to take a minute here to just go over what has happened over the past 8 or 9 or 10 months here in Congress, what we have done, how we have shifted the priorities. We have the same Members who are voting against this bill who voted against the minimum wage increase. We have the same Members who are going to vote against the children's health care bill are the same members who voted against us increasing the Pell Grant and cutting the interest rates for college loans in half, the same group of folks.

When we wanted to invest all this money in alternative energy research, we took it from the oil companies, corporate welfare, put it into alternative energy research. The same group of folks that voted against this SCHIP bill, children's health care bill, voted against that, too. And all of these issues come up. The only thing we can get them to agree on is probably the veterans spending, which was the largest increase in the history of the VA.

So what we are saying is there is a pattern, Mr. Speaker, there is a pattern of behavior of a certain fringe group of people who are here that even very conservative people have agreed with us on this issue, and we can't get enough to override the veto.

I don't know about you guys, but I have got a little restaurant I go to back home called Vernon's Restaurant, Vernon's Cafe, great Italian. But when you are sitting there and you are eating and you are talking to your friends who go through everyday life, they are talking about their student loans, they are talking about health care, they are talking about what are we going to do to stimulate the economy? Why are we so dependent on foreign oil? And we all have our own little Vernon's in all of our communities. We are trying to address these bread and butter economic issues, and I think we have in this Congress. And the one that lays before us here is children's health care. For God's sake, Mr. Speaker, God help us if we can't pass children's health care.

Mr. MEEK of Florida. Mr. RYAN, it is good that all of us agree here that is on the floor here tonight, along with hundreds of other Members of Congress. But it only takes a very small percentage of numbers to say ''no.''

And what is interesting, Mr. RYAN, when we start talking about fact versus fiction; be accurate if you are going to share something. Accuracy is not necessarily a value here in Washington, D.C. We pride ourselves, Mr. Speaker, here on the 30–Something Working Group, we go through a lot of pain and suffering and research and all of that to make sure that what we are sharing with the American people is actually fact and not fiction. If we had more fact, we would have better policymaking here in Washington, D.C.

The fact that the President would say, oh, well, you know, the Democratic Congress needs to go to work, when we broke records in the history of the Republic of 980 rollcall votes. And that is not just post offices. That is major policy that has passed off this floor.

Still saying that, what Mr. RYAN is saying, the bottom line is as we go into the last closing minutes of our time here on the floor, the bottom line is we are going to see a separation from those that are willing to lead and those that are willing to follow tomorrow.

□ 2130

There's going to be a supermajority vote to vote for children's health care to override the President of the United States. The only time he ever vetoed a piece of legislation last Congress was dealing with the stem cell research bill, and he did that. Okay. But now, every week he's threatening a veto. He's threatening a veto.

Mr. RYAN, over there, has a chart that shows how record oil prices under the Bush administration are continuing to climb to today's oil prices rate that is at the top, that's record-breaking at the top.

Meanwhile, we're around here trying to provide health care for children. We have a war that's going on that the President is willing, you know, to say, oh, well, it's okay for us to borrow from foreign nations to continue a war in Iraq, but we're not willing to provide health care for our own children.

And the sad part, and Ms. WASSERMAN SCHULTZ said funny and then we agreed on sad, the sad part is the fact that these are American children. I mean, I've been to Iraq. Mr. ALTMIRE and I have been to Iraq recently, and some of the Members here, we've been. And the real issue is this, is the fact that we went into a health care facility. Iraqi children there are getting health care. I mean, you have U.S. troops that are in neighborhoods that are giving shots and evaluations. I don't have anyone in my neighborhood

giving shots and evaluations to all the children and not asking for any documentation if you have health care or not. It's almost universal.

And so we're sitting here, and the President's going to stand on a small ant hill saying, well, you know, I think it's just too much that we're investing, and using some sort of, you know, hocus pocus talking about social medicine.

Meanwhile, children are going to the CVS, Rite-Aid or whatever the case may be, families trying to cure themselves. So I just want to make sure, I want to put the pressure on my colleagues to make sure that they override. And in closing, I'm going to send it over to Ms. WASSERMAN SCHULTZ.

Y'all know this chart. This is the first action, one of the first actions that we took as relates to the Iraq war. It had all of the requirements in there to bring our men and women home, put the pressure on the Iraqis to stand up. And the Republicans went down there and stood with the President and said we stand with the President so that the Congress will never override the President. And they may not have one of these because if they do I'm going to have my staff down there with a camera to take a picture to make sure that we have the second picture.

But those that stand with the President tomorrow in not allowing us to override when we have a bipartisan vote out of this House, and we have Senators that are standing up here like ORRIN HATCH, GRASSLEY, a number of other Republicans that are saying, hey, you know, Mr. President, you're wrong. But we have some House Members here that are saying, well, we're with the President. You continue to stand with the President. I would appreciate some sort of public kind of standing out with the President because the bottom line is, I believe those Members, Mr. Speaker, all due respect, they will be at home reading this process in the paper and paying attention to C–SPAN and seeing what's going on because their constituents will not allow a Member to vote against their own children and then say, I want to go back to Congress and represent you.

Ms. WASSERMAN SCHULTZ, I'm sorry I went past 30 seconds when you asked me to yield.

Ms. WASSERMAN SCHULTZ. That's okay because we are all pretty worked up about this. This is really important when it comes down to making sure. I have kids too. And Mr. ALTMIRE has kids. One day Mr. MURPHY and Mr. RYAN are going to have kids. It really matters to all of us.

But one of the important points that we have not made is how effective this program is. The SCHIP program, the Children's Health Insurance Program provides health care to kids who need it and who wouldn't have it if there wasn't an SCHIP program, and there won't be an SCHIP program if we don't make sure we override the President's veto or pass a bill and make sure we keep putting it on his desk until he signs it.

I think it's interesting, the President likes to call himself The Decider. So it's time for him to decide which of the families he thinks shouldn't get coverage, don't deserve health insurance.

How about this family? The Wilkerson family in St. Petersburg, Florida. This is personal, this is the Mom speaking. This is personal not only to us, but for millions of parents across the United States, said Bethany's mother, Dara, in a telephone call Monday with reporters about why she and her husband, Bo, are allowing such a focus on their daughter. Dara Wilkerson said Bethany had to have heart surgery in 2005 when she was 6 months old after doctors told them she had been born with two holes in her heart and a valve that didn't close as it should.

The Wilkersons said their annual household income is about $34,000 from their jobs, and they cannot afford private insurance. But even if they could, Bethany's pre-existing condition, the heart problem she was born with, made enrollment in a private plan impossible, her mother said. Thanks to Florida's version of SCHIP, the State KidCare program, she said Bethany gets the care she needs to recover from her lifesaving surgery.

Those are the kinds of kids that get coverage that wouldn't get it if not for the SCHIP program. Those are the kinds of kids that our colleagues who choose not to vote to override the President's veto tomorrow are going to deny.

And that's the last thing I wanted to say as we wrap up since we've got five of us here tonight, and I don't know who to throw it to.

Mr. ALTMIRE. I just have one more myth that I wanted to throw out there that none of us touched on, before our time runs out, and that's this idea of this bill promoting adults being in the SCHIP program. And the President used that as one of his examples. He talked about it today and has talked about it in the past.

Well, what are the facts of adults being in the SCHIP program? It is true that under the current SCHIP program, the plan that is current law and has been for the past 10 years, some States have made the determination to cover the parents of children, thinking that that will entice them to take their entire family to the doctor. And that's debatable. It's something that's certainly under a policy discussion we could have that debate.

But what does our bill do about that? Our bill's a reauthorization of the program. And the President says we're going to encourage adults to get into the program. Well, you know what our bill does? Our bill phases out adults being eligible for the program over a 2-year period. And after that 2-year period, the only adults that would be allowed into the SCHIP program are pregnant women, if it's determined by the State, again, it's a State option that they should be covered, and there's no guarantee that any State in the country would do that. But we phase out the current part of the SCHIP bill that allows adults into the program.

So for the President of the United States to stand up before a camera and say, I'm going to veto this bill because it allows adults to get coverage under SCHIP, is again just factually inaccurate.

So with that, if Mr. MURPHY is ready. I will yield some time to him.

Mr. MURPHY of Connecticut. I just think in the end this is about choices, Mr. ALTMIRE. Mr. RYAN was talking about it before. This is about whether you want to continue to throw billions upon billions of dollars into a war in Iraq that, frankly, is probably making this country less safe rather than more safe as it breeds terrorism and Islamic jihadists within the boundaries of Iraq.

It's about whether you want to continue to give away $12 to $18 billion of tax breaks to the oil companies that the oil companies themselves say they don't need to continue putting products into the American market. Do you want to continue to subsidize the drug industry, which is making out like bandits off of a prescription drug program that pads their pockets and their profits, as we just found out from a new report from the Government Oversight Committee that tells us that we're wasting $15 billion a year on the Medicare prescription drug program.

You want to help drug companies or poor kids? Do you want to help oil companies or poor kids? Do you want to throw more money in a religious civil war, or do you want to help poor kids? I mean, the reason why these polls, one after another, come out pleading with Congress to get its act together and pass children's health care is because everybody out there in the community, at the social halls, at the union halls, at the churches, at the synagogues, at the pasta suppers and the pancake breakfasts, the PTA, they've all figured out that we're making the wrong choice; that in the end the choice is easy. You help middle-class families afford college. You help them get health care. You boost their wages up to a livable wage, and you can do that without spending another dime in taxpayer money in the end. I mean, that's the great thing. You don't want to have to raise anybody's taxes to do it. You just make different choices. Iraq, oil companies, drug companies, instead, minimum wage, health care, kids going to college. I mean, that seems like common sense, Mr. RYAN.

Mr. RYAN of Ohio. Well, the one thing that is important too, I mean, a lot of people would say that, you know, well, my kid has insurance and we're fine and everything else. You know, but if your kid's sitting in a classroom with a kid who is sick that does not have health care because they don't

qualify for Medicaid, they're going to get your kid sick. And I think this kind of ties the whole argument together that we are in this together. You know, we have to make very sound, prudent, targeted investments in certain areas that are going to yield a lot of benefits.

These are the same kids we're asking to go off to college and get a degree in math and science. But if at a young age these kids don't have health care, where they can, if they get sick, have something, and I find it completely outrageous that in 2007 we would have a President of the United States say, go to the emergency room, or these kids can go to the emergency room. I mean, that's just ridiculous. That's just ridiculous. You don't have to be a Philadelphia lawyer to figure out that it's going to cost everyone a lot more money if this kid that has a cold ends up two weeks later in the emergency room with pneumonia or something worse and spends two weeks in the hospital.

I mean, that costs us hundreds of thousands of dollars, as opposed to a prescription that would cost 20 or 30 bucks. I mean, this is some pretty basic stuff here. And the fact that the President has drawn the line in the sand on this doesn't make a whole lot of sense.

So in closing, I want to thank everybody, Mr. Speaker, for being here and for participating in the 30-somethings. But I also want to say that it's been a very enjoyable week for those of us who are baseball fans in northeast Ohio. Those folks who may happen to be in, say, Pittsburgh or like Florida, or like New England for example, who, baseball season ended a long time ago for some of you, and others who are not faring as well, our sympathies go out to you. But in Cleveland, northeast Ohio, Youngstown, Akron, it's been a great week, followed up by a great week we had a few weeks ago. And many of you may not know, Mr. Speaker, that the new WBO/WBC middleweight champion of the world, Kelly Pavlick, is from Youngstown, Ohio, too.

Ms. WASSERMAN SCHULTZ. Mr. RYAN, I'll just remind you that our weather is still always better than yours.

Mr. MEEK of Florida. And also, Mr. RYAN, you shared that with us last week; you shared that with us the day before that. We're happy that the welterweight and middleweight champion is from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I'm not getting the kind of happy vibe from my friends.

Mr. MEEK of Florida. Mr. RYAN, we were very mild. Those of us from Florida were very mild when the University of Florida, and I'll take this from Ms. WASSERMAN SCHULTZ because if she says it she may not be as mild as I am when a certain team in Ohio, not only in football, but basketball, found themselves, no I will not yield. So what I'm saying, this whole dancing in the end zone experience that you're having now about going on and on and on, Florida, I mean, the Marlins are nowhere in this thing, and we had nothing, we're just sitting here quiet, doing an hour with you and we're not, we're not talking sports, we're all friends. We're talking about children's health care.

But we understand that those victories, the people of Youngstown, Ohio, being in Niles, Ohio, and other cities around it are very represented here under your leadership, sir, and I respect that. And I'm saying there is a limit.

Mr. RYAN of Ohio. I appreciate that. But I think, I want to, for the record, I want to clear this up. He says that the Florida folks weren't dancing in the end zone when University of Florida won the national title. I remember Ms. WASSERMAN SCHULTZ showing up here in like royal blue and orange wardrobe with a purse that had a gator on it. I remember that. So that was a little bit of dancing in the end zone. I am being polite. I didn't even mention the fact that the Ohio State Buckeyes football team was number one in the Nation. I'm trying to be polite here. So if you'd show me a little respect.

Mr. MURPHY of Connecticut. Mr. RYAN, let me ask you a question: When was the last year that your team, the Indians, won the World Series? When was that? It was a long time ago. It was a long time ago. It's just something you might want to remember, that there might be a reason why it's taking so long to get over that hump. There is still a game left, Mr. RYAN.

Ms. WASSERMAN SCHULTZ. Actually, Mr. RYAN, I think the last time they were in the World Series they lost to the Marlins, come to think of it.

Mr. RYAN of Ohio. Can we live in the present? The Dalai Lama was here today, Mr. Speaker, and he's pretty much focused on how we should live in the present moment, and I think it would behoove all of you to take the Dalai Lama's advice on that.

Ms. WASSERMAN SCHULTZ. But we digress.

Mr. MEEK of Florida. Mr. RYAN, we just could not sit here and not give the representation that we were sent up here to carry out.

But, Mr. RYAN, you know, in all seriousness to all the Members, I mean, the good thing about the 30-something Working Group, we work so hard we have to add some humor in every now and then, especially when we work a full day and it's a quarter to 10 and we're still here on the floor.

The bottom line is one of the real historic votes of the 110th Congress will take place tomorrow.

□ 2145

And I'm asking the Members, those that are not willing to override the President's veto of children's health care in the United States of America, and we don't have to worry about any Democrats, but need it be Republicans, I implore you to please reconsider on behalf of the children of the United States of America.

This is not about our children. My kids, they have health care. I am a Member of Congress, but I wasn't elected for my children to have health care. I didn't go out and give the speech, Mr. Speaker, and say ''I want you to vote for me because my children need health care and I need health care. Send me to Washington. And I am not going to vote for you to have health care, but I want my kids to have health care.''

Ms. WASSERMAN SCHULTZ. It's important to point out that you pay for your children's health care.

Mr. MEEK of Florida. Absolutely. Absolutely. But the real issue is this: At least I have a plan that I can afford, and the average American doesn't have that. And especially for these poor families, they need it.

So I don't think that anyone who votes against this went to their constituents and gave the brimstone speech or whatever you want to call it saying, ''I'm going to Washington, and when we have an opportunity to insure 10 million American children that need health care, I am going to vote against it. Vote for me on Tuesday'' and walk away. That did not happen. I guarantee you it did not happen.

And I want those Members to pay very close attention to when they put their card in the voting machine tomorrow and they vote that they look at that red light, if they press red, and correct their vote immediately on behalf of the children who don't have health care.

We are given this card here. This card is to help children, to be able to help Americans have a better life, and if you vote against it, it is really going to be a sad situation for our poorer families that are here in the United States of America and those families that are financially challenged.

Mr. RYAN of Ohio. We joke around about baseball and Cleveland, Mr. Speaker. The Cleveland Indians are doing great, but Cleveland is the poorest city in the entire country. There are a lot of kids in that city who would, hopefully, be eligible for this program and be able to take advantage of it. The same in Pittsburgh and Miami and cities in Florida and certainly Boston. So this is important stuff that we need to deal with and, hopefully, we have been able to persuade a few votes.

Ms. WASSERMAN SCHULTZ. Why don't you give out the Web site.

Mr. RYAN of Ohio. Mr. Speaker, the Web site is www.speaker.gov/30something. But I hope this has been persuasive to folks who are on the borderline here deciding on what to do.

Mr. MEEK of Florida. Thank you. We pray and hope that they join us.

And I just want to thank Mr. ALTMIRE and, you, Mr. RYAN, and Mr. MURPHY and Ms. WASSERMAN SCHULTZ for being here with us.

We will vote tomorrow. We will be on the floor continuing in the debate.

Mr. ALTMIRE, I want to thank you for being very factual on the bill and sharing with the Members what is actually in the bill. A lot of folks don't take the time to find out what's actually in the bill; so I am glad you brought that perspective to the floor tonight.

With that, Mr. Speaker, it was an honor addressing the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SPACE). All Members are reminded that assertions that the President has been deceptive constitute an indecorous descent to personalities and are thus a violation of House rules.

PARLIAMENTARY INQUIRY

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlewoman will state her inquiry.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, my understanding of the rule that you just cited is that Members need to refrain from making direct accusations of the President's being deceptive or referring to the President as a prevaricator or any other word that might apply.

What I did on the House floor this evening was read from a newspaper editorial's opinion. I did not directly make any reference. So I wanted to make sure that we clarify that that was not a violation of the rules.

The SPEAKER pro tempore. The gentlewoman is incorrect. The House rules do not permit a Member to make an improper statement under the guise that it is a quote from another.

Ms. WASSERMAN SCHULTZ. I will take that under advisement, Mr. Speaker, but that is something that I would like to look into on my own and would be happy to follow up with the Parliamentarian. Thank you.

THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Once again, Mr. Speaker, I appreciate the privilege of being recognized to address you here on the floor of the United States Congress.

And as I have listened to some of the dialogue that has been rolled out here before me, I think it's imperative that someone come to the floor to bring another voice and another opinion and another viewpoint to this subject matter, particularly of SCHIP.

The first point that I would make, Mr. Speaker, is that the SCHIP issue that has been kicked around this Congress now into its third week that perhaps comes before the floor tomorrow in an effort to override the President's very prudent and well-reasoned veto has been turned into a political issue rather than a policy issue.

SCHIP, State Children's Health Insurance Program, now, one could read that acronym and perhaps get a little better idea of what it stands for by reading the poster, Mr. Speaker. And I have heard presenter after presenter here this evening over on the other side of the aisle address this issue as children's health care and the allegation that the people that are guarding the taxpayers' dollars and seeking to get the resources that are here for the SCHIP program into the benefit of children, those who want a responsible program, those that don't want to chase people off of their own private health insurance but those that want to encourage parents, responsible parents, those who can afford it, to provide the health insurance for their children, those who want to encourage employers to provide health insurance as part of the employment package and keep in that package the insurance of the children, those of us who don't want to grow government, that want more personal responsibility, those of us who respect and appreciate the best health care system in the world, those of us who recognize that if there is a private sector investment, if people are responsible for their own health care, if parents take responsibility for their children's health insurance that this invisible hand that Adam Smith wrote about, this consumer's guide to how the health care in America will be developed, how it will evolve, how the research will be done, how the development will be done, how we will be marketing health insurance and how we will be providing services, this best system we have in the world is something we want to preserve.

And I can't think of a single thing we could do to destroy the best health care system in the world rather than to institutionalize it and federalize it and make it a socialized medicine program. Now, how do you do that?

Well, here on the floor, Mr. Speaker, of the United States Congress, September 22, 1993, President Clinton asked for a joint session of Congress. It's unusual for a President to ask to come speak to the House and the Senate in a joint session aside from the State of the Union address, but he did that on September 22, 1993, I think because Hillary actually advised him to, myself. And I have read the speech, and it is about a dozen pages long. And in that speech is component after component of a nationalized, socialized medicine program that was rolled out by the new Clinton administration in the fall of 1993.

And America looked at that. And, Mr. Speaker, I still have that poster, and I have it in the collection of my archives that shows ''Hillary Care.'' It shows a laminated poster about that wide and about that high, and if you look at it in its fine print, it's the flow chart for all the government agencies and all of the price limiting and price control and all the eventual, one can only conclude, health care rationing as well.

That whole flow chart is there on that laminated chart. That laminated chart is something that was put up before Americans in magazine after magazine, newspaper after newspaper, and published by good organizations so we could understand what it was that the Clinton administration wanted to impose upon Americans in September of 1993.

And as he laid out this case here from just in front of where you are, Mr. Speaker, he began to make a compelling case because he's a good salesman. But the American people sat and watched their television, and they reached down and pinched themselves: Do I really believe what I hear? What is coming out of the mouth of this President that sounds so good? Well, on that night the American people thought it sounded all right. They heard the message that you don't have to be responsible for the bills and you don't have to make any more health care decisions. The government will do that for you. The government will take the money out of the pockets of the people that are more wealthy than you are and put it into the pockets of the people that are of your income and less and take over some of that responsibility that you have, and somehow the world will be a better place.

Well, that was the marketing technique of that dozen-page speech September 22, 1993, Mr. Speaker. But when the sun came up on the morning of September 23, 1993, the Americans that had pinched themselves when they listened to the speech had slept upon the policy, and they began to take it apart piece by piece, one component of the flow chart, another component of the flow chart; and we ended up with an educated American populace that, after having listened to some people like ''Harry and Louise,'' after having listened to Senator Phil Gramm over in the Senate say ''We are going to have national health care in America over my cold, dead political body,'' which was a statement that Phil Gramm of Texas made on the floor of the United States Senate back during those years more than a decade ago, Mr. Speaker, the American people one at a time, sometimes by the dozens, sometimes by the hundreds, and, in fact, by the thousands rose up and said, no, we don't want national health care. We don't want that.

But a component that we did support, a component that was brought forth from this Congress in about 1997, by my recollection, and I could be off a year or so, Mr. Speaker, so I qualify that, was this component that we call SCHIP, State Children's Health Insurance Program. SCHIP was something that came out of this Republican Congress that was designed to subsidize

health insurance premiums for the children in families that were low income but not low enough income to qualify for Medicaid. That's the policy that was put in place in the mid-1990s, Mr. Speaker, and that is the policy that in 1998 went into law, as ratified in the Iowa legislature as I was a State senator there. We called it ''Hawk-I.'' We did that to give it a State moniker. And the policy that was put in place in Iowa and across this country at the time was 200 percent of the poverty level.

If you are a family of four, let's say Mom, Pa, and a couple of kids, and you are making something less than 200 percent of the poverty level, then you would qualify for a Federal subsidy for the health insurance program. And there were matching funds there. So it was a pretty good deal for the State to draw down Federal dollars to set up the SCHIP program, and every other State that I know of and the Hawk-I program in Iowa, as we called it, SCHIP, 200 percent of poverty.

Well, some might look at the charts today and dial it up on their Web page, and I think I have one here from Iowa. But the number it has, it shows about $41,000 for a family of four. And that family of four, though, has an exemption, and the exemption is 20 percent. So as I look at the number, Mr. Speaker, it comes together like this:

If you are a family of four, an income limit at 200 percent of poverty in the State of Iowa, $41,300, but you get a 20 percent discount. And 20 percent of your income is not included because, presumably, that's some of the waivers that have been granted. And 20 percent of your income is not included because you use that for living expenses. I actually think a far higher percentage of that income is used for living expenses especially in lower-income people. But 200 percent of poverty, $41,000 and change, 20 percent not included. So it really works out to be that you take the $41,000 and divide it by .8, and what qualifies in Iowa today under this SCHIP program, current law, not the one that passed the House of Representatives here that was negotiated down in the Senate, but what is current law today that I've defended, that I've supported, that I've voted for, and that Republicans have appropriated funds to for about a decade, the current law in Iowa is if you are a family of Mom, Dad, two kids, you qualify for SCHIP funding, which is Federal subsidy for your health insurance, at $51,625.

□ 2200

Now, the debate should be, not about the allegation that there's somebody here that hates kids. I don't know anybody that hates kids. Most of us have children. We all love our kids; we love our grandkids. To make those kinds of allegations should be beneath the dignity of the people over there on that side, or either side. We know that's false and that specious, and it's myopic to believe that. And somehow they think you, and I speak to that in general terms, Mr. Speaker, as the voters, will buy the idea of the allegations that they make.

But we set this up for low-income families. Low-income families are someplace, I think, below $51,625 for a family of four, but that's what qualifies today. This Pelosi Congress passed an SCHIP program that granted Federal subsidies for health insurance premiums at 400 percent of poverty; 400 percent.

So could we still, under the House plan, the ''Pelosi plan,'' could we ever claim that this is a program for poor kids at 400 percent of poverty? Well, what does that mean to the average American, Mr. Speaker? I don't know. But I live in Middle America, and we're pretty much an average State for income and an average State for population. And we have got a few things that are above average, I have to confess. If pressed, I can give you a long list, but 400 percent of poverty promoted and passed off this floor by the Pelosi Congress is $103,250 for a family of four. That's what this Congress was determined to put out here to the American people. That's what this Congress passed over to the Senate and said it's for the kids. It's for the poor kids. In fact, it was for the poor kids up to $103,250 in income for a family of four.

Now, this debate hasn't been about for the kids; I mean, this subject, this policy isn't about for the kids, and it isn't really any longer about the poor kids. It's about the argument that they're not saying, which is, are we going to lay the cornerstone for socialized medicine or are we not? Are we going to go along with the idea that we want to take away the incentive to be personally responsible as a family, a working family, maybe a two-income working family, maybe mom making $50,000 a year and pa making $50,000 a year and coming in there at $100,000 for a family of four and then saying, but taxpayer, let me have a little bit of money to fund the health insurance for my kids.

Even if the employer is providing that policy and it's part of the employment package, this program that was pushed by the majority in this Congress would take two million kids off of their own private health insurance that was funded by the labor of their parents, whether it's a direct check written to purchase the health insurance or whether it is the employment package that's there, two million kids off of that list and put them on the government-funded health insurance.

Now, why would anybody want to do that? Why would anybody that believed in this great gift of freedom that we have, why would anybody step in here and say, I don't want you to have that kind of personal responsibility. We don't need that kind of independence in America. We don't need that kind of character. We don't need that kind of work ethic. We want to take that away from you. We want you to be dependent upon these other taxpayers over here because somehow the nanny state can do a better job than you can do at taking care of your own kids, your own family, your own well-being. That's the psychology. And it has a certain amount of contempt for those working people that have the pride and the dignity to take care of themselves.

We, on this side, respect that labor and appreciate that. And many of us have pulled ourselves up by our bootstraps, paid for the health insurance for our children, taken care of our own, and paid the taxes besides that went to the people that were truly needy, those people that were on Medicaid, those people that were lower income. And some of us came up out of low-income, and actually, there have been years when I had no income when I got done figuring out my income for a bad year for a small businessman; sometimes it's in the red.

We carried our own share of this load and paid our share of taxes and took care of our own kids, and now we come along here and say, well, you don't know how to do that. We can find a better way because somebody out there is paying some taxes, and we can take their money and we're going to stick it back in here and create a program that takes the burden off of you.

And so what are we willing to do? If we listen to the majority, if we listen to this San Francisco policy that has been coming forth here for the last 60 minutes, if we would accept the idea that, unless you're making over $103,250 a year, at least in Iowa, for a family of four, you shouldn't have to pay for your own health insurance for your kids, the government can do it. Well, that's the cornerstone of socialized medicine, Mr. Speaker. And the argument otherwise just doesn't sustain itself against the facts.

And the constant argument that comes up that this is about children's health care is another misnomer. They start out with the wrong foundation in their argument. This is not about children's health care. This is the same kind of argument of rolling together the argument of illegal immigrants and legal immigrants, packaging them all up into one and using the term ''immigration,'' and then saying that because we're opposed to illegal immigrants, we're also opposed to legal immigrants.

Well, the same argument is what they're trying to apply here. If one is opposed to providing health insurance subsidies from hardworking taxpayers to people making over $100,000 a year, they interpret that to mean that you're against health care for kids.

You know, we are still a rational society. We still have people that can deductively reason. We have people that can add up two plus two is four and be able to reason that when the allegation is made on the other side of the aisle that somehow anybody is against

health care for kids when every kid in America has access to health care, every kid in America that's in a family, I will say every legal kid in America that's in a family that meets those low guidelines for Medicaid has 100 percent of their health care taken care of.

And those between Medicare qualifications and on up to that threshold, Iowa is an example, of $51,625, those kids have their health insurance premiums subsidized by the Federal taxpayer. That's current law. This Congress wanted to take it to $103,250; and when it went over to the Senate, it got negotiated down to 300 percent of poverty. That is still, in my State, $77,437. I say that's no longer middle income.

We want to take care of those people that are having a hard time making it, but we do not want to create a dependency society, unless, of course, you come from that side of the aisle, Mr. Speaker, and you're politically dependent upon a dependency society. And that's what's going on. That's what this argument is about. This is about creating a dependent society that will constantly come forth and support policies that make them dependent upon those people that are currently in the majority.

And how does the vitality of this Nation succeed if we're going to continue to dial down the vitality of Americans? Don't we know the difference, couldn't we figure this out? We saw socialism come crashing down November 9, 1989, when the Wall started coming down in East Germany, in East Berlin. That should have been the definite answer on a managed economy.

But I continually hear the argument come up over and over again, people over here, they get elected to the United States Congress that don't believe in the free enterprise system, that don't believe in the incentive program, that don't understand the invisible hand, that think somehow the free market economy is built to take advantage of people that don't have as much as anybody else. They don't seem to understand that we have people that start out with nothing that get wealthy in America, and that's realizing and living the American Dream. Even though they have some of those Members in their own caucus over there who have succeeded by these free market standards, they don't believe in the free enterprise system. They believe in a managed state, they believe in a nanny state. And so they want to be a nanny to all the kids, because if they do that, then those families become dependent upon them for the largess that's dipped out of the pockets of the working people in America to the point where this policy, this SCHIP policy that passed off the floor of this House of Representatives, would have not only funded kids and families up over $103,000 a year, families of four, but 70,000 of those families that would qualify for SCHIP, 70,000 families, not 70,000 kids, but 70,000 families also would have obligated to pay for the alternative minimum tax, the tax on the rich that was created years ago.

Now, tell me how you argue that's not socialized medicine when you've got to subsidize the health care of families so they can afford to pay the alternative minimum tax. That's the strategy. If you start on one end and you start on the other, you have people that are well off, paying more and more taxes, that's called ''progressive taxes.'' Those progressive taxes go higher and higher and higher. They come in from this way. And then you subsidize over on this side and you take care of things like heat subsidy and rent subsidy and health insurance premiums and Medicaid. And you come in from this way, you fund people's families this way, and you tax the wealthy this way, and then when they meet in the middle, you have socialism. When you have taken from the rich and given to everybody else and you have done this great class leveler, if everybody has the same income, now you've reached socialism.

But this goes even further, this SCHIP program. It crosses the line, Mr. Speaker. And so those paying the alternative minimum tax are pulled down here. Those that are receiving the SCHIP program subsidy up to 400 percent of poverty, the first passage out of this House, we're over here, 70,000 families in the middle. We've come all the way.

This policy closes the entire gap on the question of whether the people on this side of the aisle are truly Socialists, whether they believe in a free market system or whether they believe in a dependency society. Well, it's a dependency society that they believe in, Mr. Speaker.

And I will add, there are Presidential politics involved in this agenda. Now, simply, if the majority cared about the policy, we would be sitting down negotiating what it is we can agree on and trying to come up with the votes to put a policy together there. But, instead, they allege that there are all these kids that are not going to get their health care. Never true, always false, always a false statement.

In fact, when those statements were being made, we had passed off of this floor a continuing resolution that guarantees current SCHIP policy all the way to November 16th of this year. We did that so we would make sure there was no gap for any kid in America. And by the way, if we didn't care about SCHIP, wouldn't we have maybe not funded it, or underfunded it, or let it expire, or voted it out sometime when Republicans were in the majority?

How can one think that the allegation from Democrats today, when they've got the gavel, that now all of a sudden the people on this side that created SCHIP and funded SCHIP and nurtured it and protected it for a decade now have changed their mind? It's a ridiculous assumption, and it's false, Mr. Speaker. And this is about whether we're going to lay the cornerstone for socialized medicine. So political and Presidential politics play right into this.

We have these debates going on all over the country. They are concentrated in Iowa, and they are concentrated in New Hampshire. I will concede that, Mr. Speaker. And so every single Democrat Presidential candidate is for expanding this SCHIP as far as they can get it. I haven't heard a single one of them say, that's a bit too much, I think we've gone too far. I think we might have come so far from the left that we crossed over and tapped into those alternative minimum tax payers, that was maybe too much. Not one. Not a voice of fiscal responsibility, not a peep out of the advocates that says that they would ever draw the line anywhere. Because, truthfully, Mr. Speaker, they wouldn't draw the line anywhere. They simply would keep spending tax dollars, keep creating more government programs until there is no free market system left.

This is the cornerstone of socialized medicine. This does have to do with the Presidential politics. That is one of the reasons why it's been raised up to this level. When the President correctly and appropriately vetoed this bill, this $35 billion expansion, he had on the table $5.8 billion in increase, I support that. I support an extension of this, and I'm an original cosponsor of the legislation that carries this SCHIP funding out another 18 months to get us past the silly season of the Presidential and congressional elections, and perhaps we can have a serious debate then about the policy.

Meanwhile, I haven't heard a lot of noise about deficiencies in the program we have today. We have so many discrepancies in this program, Mr. Speaker, that we haven't really had the time to weigh them all in here on the floor of the United States Congress. But I want to make sure that I lay out what this really is about, SCHIP. Here's what it really stands for, SCHIP, ''Socialized Clinton-style Hillary Care for Illegals and Their Parents.'' That's SCHIP. I'll say it again. ''Socialized Clinton-style Hillary Care for Illegals and Their Parents.''

Well, I didn't address the illegal part of this. And there has been significant discourse across the country, but who has got the facts right on whether this legislation enables and enacts funding for health insurance premium subsidies, and in this case, also health care for those who are eligible for deportation?

□ 2215

Let me say this, Mr. Speaker, if ICE, if Immigration Customs Enforcement were required to deliver the voucher for SCHIP, as designed by the Democrat majority here in Congress, if they delivered those vouchers, Mr. Speaker, they would be compelled to bring a lot of those folks and deliver them back to their home country. That is the fact of

this, because they have reduced the standards, the standards under Medicaid more so than SCHIP, the standards under Medicaid that are current law today, see, you have to qualify as a citizen of the United States in order to qualify for the benefit. If you want to come over here on a visitor's visa, or a student visa, or a green card, we have already, long ago, made the agreement that we don't think that the taxpayers should subsidize those folks who come here to America for the first 5 years. So we set the standard, demonstrate your citizenship. There's a whole list of ways to do that. The primary two are a birth certificate with supporting documents or a passport, which has already required the supporting documents. That is the standard that is in current law, Mr. Speaker.

This legislation that was promoted here by the Pelosi Congress and sent to the Senate and passed off the floor of the Senate, and thankfully vetoed by the President, has lowered those standards so that now presentation of a legitimate Social Security number is all that is required to demonstrate your lawful presence in the United States and your eligibility, for now, in this particular case, it also includes Medicaid, as well as SCHIP. The result is that we know that we have millions of people employed in the United States illegally who have presented a Social Security number that may or may not have been a legitimate one, but all they need to do is identify a legitimate Social Security number, present it to their employer, their employer sent that number off to the Social Security Administration. That was all that was required. There might be 1,000 people with the same number. Well, they all get paid every Friday and the benefits all get stacked up on that, and it is called the no match list in a way. Some of it is duplicates. There is also the no match list. Then there is the nonwork Social Security numbers that are given to people that aren't eligible to work here but they needed the number for another reason while they were here as a visitor. There are millions of nonwork Social Security numbers.

Well, all of those that are legitimate or valid may not identify an American citizen, and the Social Security Administration has put out a statement that it is inadequate to take a Social Security number and use that to verify citizenship. But that, under the new standards by this majority in Congress, would be all that is required now to qualify for Medicaid benefits and, Mr. Speaker, to qualify for SCHIP benefits. In Iowa that's Hawk-I.

The Congressional Budget Office has concluded that the net cost to taxpayers, and now I have to do the math on this, is $3.7 billion in extra funding by lowering those citizenship standards. Much of that will go to illegals, people that are unlawfully in the United States, people that if ICE delivered the check, delivered the voucher, if they are going to follow through on the law, they would have to pick them up and take them home.

There is another $2.8 billion that is the States' share of that obligation. So the net cost for opening up, the standards that allow people who are unlawfully present in the United States and ineligible for Medicaid benefits and SCHIP benefits to open up those standards, the net cost to the taxpayers directed by the Congressional Budget Office is $6.5 billion.

Yet, Mr. Speaker, I have highly positioned people here in the House of Representatives and over in the other body that say, that's not true. Well, if that is the case, Mr. Speaker, let them roll the language out. Show me where that loophole is closed. I have read the language. I am saying the loophole doesn't exist. I believe that this is, as I said earlier, SCHIP, Socialized Clinton-style Hillary-care for Illegals and Their Parents. That will be the result. That is the cornerstone of socialized medicine, the weakened citizenship requirements.

I will make another point, and that is when my State gets finished paying the increase in tobacco tax, the 61 cents a pack that is added on to the current Federal 39 cents, that is a 156 percent increase of tobacco tax on cigarettes. Now, I am not here to plead for the smokers except I will plead with you all, Mr. Speaker, if you are smokers, please quit. We all know it is not good for you. Read the side of the pack. That is where you get all the information you need to know to make that decision. But when you increase the tax, we have a lot of middle- and low-income people are smokers. They will pay a disproportionate share of that tax. But when they pay that tax in my State, of course, there will be an increased revenue on tobacco tax in all States. That money, that 61 cents a pack additional that brings the tax up to $1 a pack, flows here to Washington, D.C. and then we sit here and make the decisions on flowing it back to the States. We know, according to the Centers For Disease Control on this particular statistic, we know that in my State, we pay additional taxes, and then money comes back in under SCHIP, and the net loss to my Iowa taxpayers is $226 million. $226 million is our net loss for this program. Why would we want to be for a program that is going to cost everybody in Iowa more money and you get less back? This brilliant plan, and I will get that to a chart here to illustrate it a little bit better, but this brilliant plan also presumes that there is going to be a whole lot more smokers that will be recruited in order to fund the extra cost of this SCHIP program. That number is over the years of this program an additional 22.4 million new smokers.

Now, Mr. Speaker, I am having a little trouble with the math on this. How does this work? How does this work that you increase the tax on tobacco and you kick that tobacco tax up from 39 cents, add 61 cents, now you are a buck a pack. Now that cigarettes got 61 cents more expensive, we are going to have 22.4 million more new smokers. It defies any kind of logic or any kind of rationale. That is typical for Washington, some will say. But I think we have a strong record of being for the kids. We have a strong record of providing for their health care. No one could bring a child out here on a poster or to the floor or before a press conference and say this kid didn't have access to health care. In fact, the examples that have been used by the majority on the other side, Mr. Speaker, are examples of kids that already qualify. And if they do not, I would like to have them point out the exceptions.

So at this point in this opportunity that I have, I see that my good friend from New Jersey (Mr. GARRETT) who has been a strong and vigilant voice for the taxpayers of America and prudent policy that produces the right result has arrived on the floor.

I would be happy to yield him such time as he may consume.

Mr. GARRETT of New Jersey. I thank the gentleman from Iowa for coming to the floor and speaking on SCHIP. I was on the floor earlier this evening, as you may know, with Dr. GINGREY. We were speaking about earmarks. After us, the other side of the aisle began their talk about SCHIP. I was hoping to interject when they were on the floor but that was not possible. So I'm glad you bring this issue up.

Let me touch on one point you are talking about. That is the cigarette tax. You made a generalized statement. Let me give you an actual number here. The SCHIP program, of course, is intended to benefit the low-income and the indigent children. The question is how is this being funded? You had correctly stated it is going to be funded by a cigarette tax. You generalized the statement that the cigarette tax generally falls disproportionately on the poor. And that actually is correct.

A study was done in 1990. It said that people who made under $10,000 per year paid almost twice as much in cigarette taxes as those who made $50,000 and above. So there is the irony. We are trying to provide a health care program for the poor. And on whose back is it going to be placed? It is going to be placed and paid for by those very same poor people who are paying a substantially higher cigarette tax.

The study goes on to say that there are other adverse impacts to raising the cigarette tax. One of them you wouldn't necessarily think of. But when you raise the taxes that high, much higher, a higher Federal cigarette tax, the study says, will lead to more violent crime. The foundation's chief economist has documented that higher cigarette taxes fuel black-market activity, including truck hijackings and other armed robberies. In 2003 he said, for example, 200 cases of cigarettes in a modest-sized transport truck would have a retail value in New York City of around $1 million and

would be a tempting market for thieves. So these are the side issues you don't hear about when you hear the bumper sticker rhetoric from the other side.

The other thing that you don't hear from, and I will yield back at any moment if the gentleman has a point to make here I see with his signs or charts. Another interesting point is the need for the overall program. I don't want to get bogged down in numbers and you are better facilitated with the charts there. But let's take a look at where we have been over the last 20 years when we talk about children in need. In 1987, now look at 1997 and 2002. In 1987, child poverty rate in this country was 18.7 percent. The eligible children who were eligible for programs, at that time, 20.3 percent. So just about the same numbers who were eligible for some sort of a government program such as Medicaid were at the same approximate number who were in the child poverty rate. In 1996, you go ahead about 10 years, those numbers now are about 20 percent in the poverty level, 28 percent eligibility, that means we have now reached a point where more kids were eligible for government assistance than were actually classified as childhood poverty. Flash ahead now to 2002, the rate now of overall childhood poverty rate, 16.7 percent, eligibility though for government assistance and Medicaid and the like, government health insurance, 47.1 percent. We have gotten to the point where almost half of the kids in this country are now entitled to welfare payments.

You had on your other chart when I came in here a neat little acronym for what SCHIP was. We have to call it what it really is. H.R. 976, SCHIP expansion, Socialized Clinton-style Hillary-care for Illegals and Their Parents, SCHIP. Well, that's true. And another way of calling it is welfare. We have gotten to the point where almost half the kids in this country are now eligible for Hillary-care, welfare, whereas the poverty rate for these children has actually decreased during that period of time to around 16.7 percent.

We have gone in the right direction in this country as far as reducing the number of all kids who are in poverty, but we have vastly exceeded what the actual need is.

Mr. KING of Iowa. I thank the gentleman from New Jersey. While you are here, a question arises in my mind and perhaps you are more astute in the nuances of history, and neither of us were here during the nineties when the welfare to work, the welfare reform program was put into place. I pose this question. There is a part in my recollection I am not certain about, but it seems that one of the criticisms to welfare reform, getting people off of welfare and putting them on work, ''workfare'' we often called it, and there was significant success in some of the States. Wisconsin got a lot of publicity, I think, that launched Governor Tommy Thompson on a pretty successful path. Also, in my State we did a very good job and very successful working in conjunction with the policy established here out of Congress.

But it is my recollection that a component in the master plan to succeed in welfare reform was that if you took people off welfare and they couldn't afford health insurance for their children, they would be more likely to stay on welfare and less likely to work. So that was one of the components of the psychology in creating the SCHIP program in the first place, dialed in at 200 percent of poverty.

I would ask the gentleman from New Jersey if that is consistent with your recollection.

Mr. GARRETT of New Jersey. That is absolutely consistent with my recollection.

Another aspect of it was at the time that the master plan as you described it at that time was to be more, was to be broader than what eventually transpired, and that was to include the block grant type arrangement for Medicaid, as well. Had we done that, we would not be in this budgetary crisis that we find right now where Medicaid has continued to have gone up, and the States actually would have been in a better situation than they are right now. Just as with Medicare, just as with the welfare reform movement, when the States were issued a block grant and given the significant flexibility that they had with the set dollar amount, the States were able to use the ingenuity of their States to actually decrease the enrollment of their welfare recipients and at the same time actually since the dollar limit remained the same, the per capita number per recipient actually went up. So those individuals who had the most need, if you will, had the most difficulty climbing out of their condition and their plight that they were in, you had a larger dollar value that you are able to apply to their particular condition.

□ 2230

Had we done the same thing as this Republican Congress at the time intended to, but we were stopped, as you recall; President Clinton put up the roadblock to it. We could have done the exact same thing with Medicaid, done it in a flexible block grant arrangement to the 50 States. The Governors of those States would have no strings attached to it whatsoever. They could have decided who and how they were going to get into it. You could have had an SCHIP-type arrangement where you allowed them to go into privatized health insurance programs. The benefit there would of course be, just as a side issue, that you would not be squeezing out the private sector marketplace. You would be opening up and creating greater competition and you would not be having this dilemma that we are facing right now. That was all the possibilities we had back in 1996. We lost it at that time because of President Clinton and what he was trying to do.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I put this poster up. This shows the different levels in the maximum income levels for qualifications in Iowa income today, which I think is representative across the country. This is the number that I spoke about earlier. This is current law as it is applied in Iowa today, a family of four qualifying for the State Children's Health Insurance Program subsidy dollars making $51,625 a year. We also have significant number of kids that qualify, not just in Iowa, but across the country, that are not recruited, they are not signed up under this program.

Now, I am going to operate under the theory that if the family has sufficient income or if they have the health insurance that's provided through their employers, they may well not want to complicate their plan and they may be a lot happier taking care of their own health insurance premiums. I am happy if they are.

Mr. Speaker, it isn't my job to come here to this United States Congress and ask people to be more dependent upon the tax dollars that we are squeezing out of the working people in America. That is all the taxpayers in America have to contribute to this. So we want to take care of the poor people, take care of those at that threshold of Medicaid, but we chose that number to be at 200 percent, and because of waivers, we are at $51,625 for that family of four in Iowa.

This is what the Pelosi Congress passed; the first pass off the floor that went to the Senate, which set Iowa at $103,250 for a family of four. Who in the world thinks that that is poverty, a six-figure income for a family of four, that is a poverty level where you can't sustain your own income or you can't sustain your own responsibilities for health insurance. By the way, who's making that kind of money that doesn't have some kind of arrangements for health insurance?

Well, there is an answer to that, Mr. Speaker. In one of those posters, I think it's this handy poster behind here. Before I go to the next poster, I want to ask the gentleman from New Jersey, at this 400 percent of poverty here, the 300 percent, for 200 here, what kind of creativity does New Jersey have and what one might expect on a chart if one had this set-up for the New Jersey residents.

Mr. GARRETT of New Jersey. Well, New Jersey, as you may know, has not gone up to the 400. New York is, I think, the only State that as of current law, not the bill just approved by the House, under current law, New York has attempted to go up to 400 percent. New Jersey is at 350 percent, which puts us at around, for a family of four, $72,000. Now the median income is around $61,000 or $62,000 for the State of New Jersey, which means you're at the average.

Mr. Speaker, so what are we saying here? We are saying that even those who are above average in income are now going to eligible for socialized welfare payments. Once a month they will get a welfare payment. It won't be in the form of a check, like a normal welfare payment coming to you to cash. Instead, it will be delivered directly to the insurance company, or other method.

What that means is this. For every ten people that you wish to enroll under the plan under the Pelosi method, approximately six those people will already have insurance. So in that last chart you would say up in the $103,000 range. Every ten new children that you bring into the program, these six over here already had insurance. You're only adding these four children over here. But you're doing it at a tremendous cost. You're using taxpayers' dollars now to pay for those children who maybe their parents are making $103,000.

Wouldn't it be so much better if those tax dollars were going to try to find a way to make sure that these four kids had all the, not only insurance, but also the actual health care, which is a question that I think you were bringing up before, because at the end of the day that is really what we should be focused on, making sure those kids have health care. Because it does those four kid absolutely no good just to make sure that they have insurance if they can't find a doctor to treat them.

How many people do you know of, senior citizens who have Medicare and go out and try to find a doctor to accept their Medicare payments, and they find out there's no Medicare doctors receiving Medicare recipients. How many people do you know that are on Medicaid right now, which is an insurance policy, and try to go out and find a doctor who says they are still taking Medicaid patients, and they are not taking them.

Mr. Speaker, we have done nothing if we simply have insured four new children under this SCHIP program if it's set up in such a manner that there is nothing else to facilitate more doctors to be out there to actually get care. We have done nothing to improve the health care coverage, all we've done is a sound bite for the Democrats, saying we improved insurance coverage.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman.

Mr. Speaker, as you spoke, I put up this chart that tells us about what level of health insurance is there for kids. As you go up the chart here, and I will draw the line at 300 percent of poverty, 77 percent have health insurance; at 400 percent, 89 percent. Then actually up to 400 percent, 89 percent do. Once you reach the level that was passed off here by the majority in this Congress, there are only five percent of the kids that don't have health insurance.

So what were we trying to fix that covered 95 percent of those kids? What was it that had a greater value to this society than people being able to make their own decisions with their own money. I will argue again, this lays the cornerstone for socialized medicine and it pushes kids off of their own private health insurance.

The CBO has some numbers that shows for everyone that would be picked up and put on health insurance, there is another one that has their own health insurance that they will be leveraged off of it. A one-to-one ratio. In that number are 2 million kids that are currently insured by this current program, the bill that will come up again tomorrow, where we will sustain the President's veto. Should we fail to do that, there will be 2 million kids in America that will lose their own private health insurance because their decision will be made let the government pay for it instead.

I call that irresponsible. I call that poor policy. If you believe in socialized medicine, if you believe in a managed economy, if you believe in a managed society, if you believe in less freedom and more dependency, then make the argument, make the argument, Democrats. If that is your vision, stand up and say so. But instead they say no, it is not about socialized health care. This is about kids.

Well, I care about my kids. I care about their future, Mr. Speaker. I care about my grandchildren and their future. And when I hear my colleagues over on this side of the aisle talk about the legacy that we are shaping here on the floor of the United States Congress, they are thinking about the legacy that has been handed to us, down from God through the hands of our Founding Fathers, on to that document where they pledged their lives, their fortunes and their sacred honor, which is the Declaration, and on to the Constitution, this great legacy that has flowed to us, God's gift of freedom, is being diminished day by day on the floor of the United States Congress, trading off our freedom for dependency, trading off our freedom for, even today with the FISA debate, less security.

What is the vision here on the other side of the aisle? I want to hang onto those gifts that we have. I want my children to have more opportunities than I had, not less. I don't want to diminish those opportunities by taking away from them their freedoms, taking away their decisionmaking, making them so dependent that they lose their vitality, that they forget that they have to go out and work, earn, save and invest and plan for and manage their own future.

Even Jimmy Carter said back in about 1976 that people that work should live better than those who don't. Too bad he didn't follow through on that philosophy. But that was a memorable quote that I thought was a memorable one that he made when he was campaigning for President back in Iowa back then, that people that work hard and plan have to have some reward, and if you take their reward away, the hard-earned sweat from their brow, and you require them to pay the Alternative Minimum Tax, because you say you made too much money and the tax rates we made aren't good enough to get all the money we want out of you, so we will add this extra Alternative Minimum Tax on here, and 70,000 of those families have to have the health insurance for their children subsidized because you set up a policy that is closed and cross the loop from independents, from progressive tax, to socialism, then we are here to say, Mr. Speaker, that is wrong.

I take that stand and I draw that bright line. That is wrong. I want freedom. I want personal responsibility. I want to reward the people that make their own decisions. They need to have the freedom that comes with the dollars that they earn to the maximum extent possible.

I will be happy to yield to the gentleman from New Jersey.

Mr. GARRETT of New Jersey. Just one point on this issue of freedom and the opportunities that come from it and therefore the incentives that also lead to it.

We spoke just a moment ago with regard to the 1996 welfare reform package. Back when that was done, one thing that did impact the Medicaid program was a change to who was entitled to benefits. So in the 1996 Medicaid reform, they eliminated Medicaid benefits for noncitizen immigrants. Noncitizen immigrants. That means someone in the country legally, not illegal immigrants, but people in this country legally, so they are non-citizens and immigrants, they were eliminated from getting Medicaid coverage.

Now, the critics of the proposal you may recall at that time said wait, wait, wait. If we are going to take this class of people who are otherwise eligible economically income-wise out of the pool that are eligible for Medicaid, we know what is going to happen. Their health condition is going to deteriorate, and, as importantly, their coverage level is going to go down.

But you know what? For just the point you were saying, the increase in freedom, that did not occur. There was now a new incentive. Since they were not eligible to get Medicaid anymore, there was an incentive to do just what you say, to go out work, either get a job that had health insurance provided for it, or, if not, get a job that paid enough that they were able to buy insurance or do something to the health insurance.

So the result of that group being excluded from Medicaid coverage at that time, from 1996 forward, was an increase in insurance coverage for that class of individuals.

That is what we learned from expanding freedom, expanding opportunity, providing an incentive, as opposed to what is in the socialized Clinton-style health care for illegals and their parents SCHIP plan, is a disincentive and

a phasing out and pushing out for the opportunities for individuals.

Mr. KING of Iowa. I thank the gentleman from New Jersey, and I take you north of the border. We started to hear in the news in the last week or so something that has been brought to our attention here in this Congress where we have some Interparliamentary exchange, and I have sat down with the Canadians perhaps 3 years ago.

They pressed the case that we need to do a better job of controlling our borders because we had people pouring into the United States, coming here illegally, and once they got established here, they realized there were welfare benefits to be had in Canada. And they were having thousands, at that time, about 3 years ago, they had about 50,000 illegal immigrants that they said had poured through the United States and into Canada and they were putting too much pressure on their welfare system.

So I asked the question in that meeting, what percentage of those that arrive sign up and qualify for welfare? Their answer was, Mr. Speaker, virtually 100 percent of them, because that is how the Canadian laws are set up as a magnet.

If you saw in the news this past week, there is a community there not too far north of the border into Canada that has started to raise an issue, and they said they are enclaves that are being created here with illegal immigrants that have been illegal in the United States that have gone on into Canada because the welfare benefits are better.

They interviewed some of them on the street where they laughed and smiled about how it was that their welfare check came on time, there weren't so many snags and snafus in the welfare system in Canada, and they were glad to be there despite of the winters.

That was the message I got, Mr. Speaker. And I think that study in sociology that the gentleman from New Jersey (Mr. GARRETT) has laid out speaks to that, that people will follow a path, and if you grant them a safety net, that is fine. It fits the standards I think of the American people. But when you crank that safety net up, at some level the safety net becomes a hammock. Then they rest back in the hammock and they lose their desire to produce, there is not a reason any longer. So the merit that comes from having to produce, of having that responsibility, is part of what gives us a vitality in this country.

As I started this discussion out in the beginning, I talked briefly about the defeat of communism, the defeat of socialism, the collapse of the Soviet empire, because they found out that a managed economy and socialism didn't work. That when you let people earn, save, work, invest, and they decide when they make their purchases and they decide how they go about doing that, that creates opportunities in a free market system.

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You simply cannot manage an economy without it. It manages itself under the free market system, and people have an incentive to go to work because there is a reward for that work. If you take that reward away and you do the great leveler and you make the argument like is being made in this Socialized Clinton-style Hillary-care for Illegals and their Parents, if you make the argument that you make too much money, we are going to take it. And, by the way, we are going to take all of that that comes down someplace in the middle, and then we are going to subsidize your expenses on up to that point, and in fact we are going to cross them to where we are going to tax you on the alternative minimum tax and provide health insurance for your kids, that is the definition of the nanny state. That is a definition of socialism, and that is a definition for a nation losing its vitality, its confidence, its ambition. And the sum total of the individual productivity in America under this plan, Mr. Speaker, goes down. American people will not work as hard. They will not be as prudent and as responsible under this program that they have brought off this floor in this Pelosi Congress, and that diminishes all of us.

We need to be about raising the average individual productivity of all of our people and the quality of our life and raising our own personal responsibility. It is not just economic, Mr. Speaker, it is cultural. It is the work ethic. We used to call it the Protestant work ethic until we figured out that the Catholics got with that program pretty good, too.

But we went to work and we raised our families. We understand that is our first responsibility, then our neighborhood and our community. Also our schools and our churches and our States and our country. God, then country, make this a better place than it was when you came. That is the charge that has been handed to us because we are such grateful beneficiaries of this American Dream that has been passed to us. And we squander it under this program.

We diminish all of us when we increase the dependency, especially when we can't make an honest argument, an argument that speaks to the issue, an argument that says over there, if they just stand up and say ''I am for socialized medicine,'' at least the Presidential candidates, the Democrats, have done that.

They haven't quite done that over there yet. They want to change the subject matter. They are for socialized medicine. We are for freedom. We are for the kids.

I yield to the gentleman.

Mr. GARRETT of New Jersey. Mr. Speaker, I should point out that the dependency and the loss of freedom is not only for the individual, it is for the State, too. What CHIP does is create an incentive for States to add more people onto the program since there is a 3 to 1 ratio as far as the dollars. The State spends $1, and they get basically a 3 to 1 ratio in dollars from the Federal Government.

That means that the State is no longer incentivized to do other creative things to actually improve the health of the kids in the State, just so they can turn around and say we are getting Federal dollars to put the kids on health insurance. So not only do we disincentivize or take away incentives from individuals, we take away incentives from the States to do the right things for themselves. We see it in New Jersey. I am sure you see it in your State.

Mr. KING of Iowa. One other point. This isn't all just about kids on SCHIP. You have States like Minnesota, 87 percent of the beneficiaries are adults, not kids. We need to take these resources and push them down to where they go to the kids that are the reason for this program. We need to provide and maintain this personal responsibility. Two hundred percent of poverty has been a good target for more than 10 years. Four hundred percent of poverty is taking the path to socialism. Three hundred percent is too much. But this program that is before us today is Socialized Clinton-style Hillary-care for Illegals and their Parents.

Mr. Speaker, I will let that be the last word.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COSTA) to revise and extend their remarks and include extraneous material:)

Ms. HERSETH SANDLIN, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. HIRONO, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, today and October 24.

Mr. JONES of North Carolina, for 5 minutes, October 24.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on October 15, 2007 she presented to the President of the United States, for his approval, the following bills.

H.R. 1124. To extend the District of Columbia College Access Act of 1999.

H.R. 2467. To designate the facility of the United States Postal Service located at 69 Montgomery Street in Jersey City, New Jersey, as the ''Frank J. Guarini Post Office Building''.

H.R. 2587. A Bill to designate the facility of the United States Postal Service located at 555 South 3rd Street Lobby in Memphis, Tennessee, as the ''Kenneth T. Whalum, Sr. Post Office Building''.

H.R. 2654. To designate the facility of the United States Postal Service located at 202 South Dumont Avenue in Woonsocket, South Dakota, as the ''Eleanor McGovern Post Office Building''.

H.R. 2765. To designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the ''Master Sergeant Sean Michael Thomas Post Office''.

H.R. 2778. To designate the facility of the United States Postal Service located at 3 Quaker Ridge Road in New Rochelle, New York, as the ''Robert Merrill Postal Station''.

H.R. 2825. To designate the facility of the United States Postal Service located at 326 South Main Street in Princeton, Illinois, as the ''Owen Lovejoy Princeton Post Office Building''.

H.R. 3052. To designate the facility of the United States Postal Service located at 954 Wheeling Avenue in Cambridge, Ohio, as the ''John Herschel Glenn, Jr. Post Office Building''.

H.R. 3106. To designate the facility of the United States Postal Service located at 805 Main Street in Ferdinand, Indiana, as the ''Staff Sergeant David L. Nord Post Office''.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Thursday, October 18, 2007, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3748. A letter from the Acting Director/PDRA — PARA/RUS/USDA, Department of Agriculture, transmitting the Department's final rule — Community Connect Broadband Grant Program (RIN: 0572-AC09) received October 1, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3749. A letter from the Director, Office of Electricity Delivery and Energy Reliability, Department of Energy, transmitting notification regarding a report pursuant to Section 368 of the Energy Policy Act of 2005; to the Committee on Energy and Commerce.

3750. A letter from the Assistant Administrator for Power Marketing Liaison, Department of Energy, transmitting notification regarding a report pursuant to Section 2605(e) of the Energy Policy Act of 2005; to the Committee on Energy and Commerce.

3751. A letter from the Secretary, Department of Health and Human Services, transmitting the fourth annual financial report to Congress required by the Medical Device User Fee and Modernization Act of 2002 (MDUFMA), covering FY 2006; to the Committee on Energy and Commerce.

3752. A letter from the Secretary, Department of Health and Human Services, transmitting the FY 2006 financial report for the Animal Drug User Fee Act of 2003 (ADUFA); to the Committee on Energy and Commerce.

3753. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAR Case 2006-028, New Designated Countries-Bulgaria, Dominican Republic, and Romania [FAC 2005-19; FAR Case 2006-028; Item VIII; Docket 2007-0001, Sequence 01] (RIN: 9000-AK77) received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3754. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAR Case 2006-025, Online Representations and Certifications Application Review [FAC 2005-19; FAR Case 2006-025; Item IX; Docket 2007-0001, Sequence 3] (RIN: 9000-AK76) received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3755. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAR Case 2006-006, Free Trade Agreeemnts-El Salvador, Honduras, and Nicaragua [FAC 2005-19; FAR Case 2006-006; Item X; Docket 2006-0020; Sequence 7] (RIN: 9000-AK49) received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3756. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAR Case 2006-017, Free Trade Agreements-Bahrain and Guatemala [FAC 2005-19; FAR Case 2006-017; Item XI; Docket 2006-0020; Sequence 11] (RIN: 9000-AK61) received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3757. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; Technical Amendments [FAC 2005-19; Item XIII; Docket FAR-2007-0003; Sequence 2] received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3758. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; FAR Case 2006-027, Accepting and Dispensing of $1 Coin [FAC 2005-19; FAR Case 2006-027; Item XII Docket 2007-0001, Sequence 5] (RIN 9000-AK54) received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3759. A letter from the Chief Acquisition Officer, GSA, Department of Defense, transmitting the Department's final rule — Federal Acquisition Regulation; Federal Acquisition Circular 2005-19; Small Entity Compliance Guide [Docket FAR-2007-0002, Sequence 4] received September 25, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3760. A letter from the General Counsel, Federal Retirement Thrift Investment Board, transmitting the Board's final rule — Employee Contribution Election and Contribution Allocations; Correction of Administrative Errors; Availability of Records; Death Benefits; Loan Program; Thrift Savings Plan — received September 18, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3761. A letter from the Office of Personnel Management, transmitting the Office's final rule — Reemployment of Civilian Retirees to Meet Exceptional Employment Needs (RIN: 3206-AI32) received September 19, 2007, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Oversight and Government Reform.

3762. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting a copy of the ecosystem restoration project along the Snake River near Jackson Hole, Teton County, Wyoming; to the Committee on Transportation and Infrastructure.

3763. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting notification that the Secretary of the Army supports the reauthorization of the American and Sacramento Rivers, Folsom Dam Modification, California, as provided in Section 3029(b) of the Water Resources Development Act of 2007; (H. Doc. No. 110-63); to the Committee on Transportation and Infrastructure and ordered to be printed.

3764. A letter from the Assistant Secretary of the Army for Civil Works, Department of Defense, transmitting notification that the Secretary of the Army supports the authorization and plans to implement the flood damage reduction project for the Des Moines and Raccoon Rivers, Des Moines, Iowa; (H. Doc. No. 110-64); to the Committee on Transportation and Infrastructure and ordered to be printed.

3765. A letter from the Under Secretary for Science, Department of Energy, transmitting notification regarding a report pursuant to Section 1010 of the Energy Policy Act of 2005; to the Committee on Science and Technology.

3766. A letter from the Under Secretary for Science, Department of Energy, transmitting notification regarding a report pursuant to Section 1102(e) of the Energy Policy Act of 2005; to the Committee on Science and Technology.

3767. A letter from the Under Secretary for Science, Department of Energy, transmitting notification regarding a report pursuant to Section 1814 of the Energy Policy Act of 2005; to the Committee on Science and Technology.

3768. A letter from the Under Secretary for Science, Department of Energy, transmitting notification regarding a report pursuant to Section 979 of the Energy Policy Act of 2005; to the Committee on Science and Technology.

3769. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled ''The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 2004''; to the Committee on Science and Technology.

3770. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, ''The Mentoring Children of Prisoners Program,'' pursuant to Public Law 107-133, section 121 (439)(g); to the Committee on Ways and Means.

3771. A letter from the United States Trade Representative, Executive Office of the President, transmitting the Report on Progress in Reducing Trade-Related Barriers to the Export of Greenhouse Gas Intensity Reducing Technologies, pursuant to Public Law 109-58, section 1611; to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SESTAK:

H.R. 3863. A bill to provide a strategic approach to the war in Iraq to enhance the national security interests of the United States both at home and abroad, while ensuring the safety of the United States Armed Forces and ensuring stability in Iraq and the Middle East; to the Committee on Armed Services,

and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CAMP of Michigan (for himself, Mr. HULSHOF, Mr. BOUSTANY, Mrs. MYRICK, Mr. LEWIS of Kentucky, and Ms. GRANGER):

H.R. 3864. A bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program through fiscal year 2012, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCGOVERN (for himself and Mr. JONES of North Carolina):

H.R. 3865. A bill to amend title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ (for herself and Ms. CLARKE):

H.R. 3866. A bill to reauthorize certain programs under the Small Business Act for each of fiscal years 2008 and 2009; to the Committee on Small Business.

By Ms. VELÁZQUEZ (for herself, Ms. FALLIN, Ms. CLARKE, and Mr. REYES):

H.R. 3867. A bill to update and expand the procurement programs of the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. POMEROY (for himself and Mr. CANTOR):

H.R. 3868. A bill to provide an orderly transition to new requirements, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BACHMANN (for herself, Mr. RAMSTAD, and Mr. KLINE of Minnesota):

H.R. 3869. A bill making appropriations to the Department of Transportation to repair and reconstruct the bridge that collapsed on August 1, 2007, on Interstate Route I-35W in Minneapolis, Minnesota, for the year ending September 30, 2008; to the Committee on Appropriations.

By Ms. DELAURO:

H.R. 3870. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide for child care workforce development initiatives, and for other purposes; to the Committee on Education and Labor.

By Mr. ELLSWORTH:

H.R. 3871. A bill to amend the Communications Act of 1934 to require certain schools having computers with Internet access that receive services at discounted rates to certify that, as part of the required Internet safety policy, the schools are educating minors about appropriate online behavior; to the Committee on Energy and Commerce.

By Mr. FORTENBERRY:

H.R. 3872. A bill to amend title XXI of the Social Security Act to impose requirements on coverage of children in higher income families under the State Children's Health Insurance Program (SCHIP); to the Committee on Energy and Commerce.

By Mr. HODES (for himself and Mrs. CAPITO):

H.R. 3873. A bill to expedite the transfer of ownership of rural multifamily housing projects with loans made or insured under section 515 of the Housing Act of 1949 so that such projects are rehabilitated and preserved for use for affordable housing; to the Committee on Financial Services.

By Mr. KAGEN (for himself, Mr. RAMSTAD, Mr. KIND, and Mr. ENGLISH of Pennsylvania):

H.R. 3874. A bill to amend the Internal Revenue Code of 1986 to reduce the recognition period for built-in gains for subchapter S corporations; to the Committee on Ways and Means.

By Mr. KUCINICH (for himself and Mr. ISSA):

H.R. 3875. A bill to permit the Secretary of Labor to make an administrative determination of the amount of unpaid wages owed for certain violations of the Fair Labor Standards Act in the New Orleans region after Hurricane Katrina; to the Committee on Education and Labor.

By Ms. LEE (for herself, Mr. ELLISON, and Mr. GRIJALVA):

H.R. 3876. A bill to amend the Internal Revenue Code of 1986 to limit the deductibility of excessive rates of executive compensation; to the Committee on Ways and Means.

By Mr. MATHESON (for himself, Mr. GORDON, Mr. WHITFIELD, Mr. ROSS, Mr. DAVIS of Kentucky, Mr. YOUNG of Alaska, Mr. CANNON, Mr. BACHUS, and Mr. ROGERS of Kentucky):

H.R. 3877. A bill to require the Director of the National Institute of Standards and Technology to establish an initiative to promote the research, development, and demonstration of miner tracking and communications systems and to promote the establishment of standards regarding underground communications to protect miners in the United States; to the Committee on Science and Technology.

By Mr. MCCAUL of Texas (for himself, Mr. DENT, and Mr. CLEAVER):

H.R. 3878. A bill to authorize the National Science Foundation to accept and use contributed funds from the Department of Energy for certain activities related to the Energy for Sustainability program; to the Committee on Science and Technology.

By Mr. PATRICK MURPHY of Pennsylvania:

H.R. 3879. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for qualified tuition and related expenses; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 3880. A bill to amend title 40, United States Code, to authorize the National Capital Planning Commission to designate and modify the boundaries of the National Mall area in the District of Columbia reserved for the location of commemorative works of preeminent historical and lasting significance to the United States and other activities, to require the Secretary of the Interior and the Administrator of General Services to make recommendations for the termination of the authority of a person to establish a commemorative work in the District of Columbia and its environs, and for other purposes; to the Committee on Natural Resources.

By Mr. UDALL of New Mexico (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 3881. A bill to amend the Internal Revenue Code of 1986 to modify the rules for charitable contributions of fractional gifts; to the Committee on Ways and Means.

By Mr. WALZ of Minnesota (for himself, Mr. KLINE of Minnesota, Mr. PETERSON of Minnesota, Ms. MCCOLLUM of Minnesota, Mr. OBERSTAR, Mrs. BACHMANN, Mr. RAMSTAD, Mr. ELLISON, Mr. BRALEY of Iowa, Mr. BOSWELL, Mr. LOEBSACK, and Mr. LATHAM):

H.R. 3882. A bill to amend title 38, United States Code, to change the length of the obligated period of service on active duty required for receiving certain education benefits administered by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WILSON of South Carolina:

H.R. 3883. A bill to amend the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to give priority consideration to Port Royal Sound, South Carolina, in selecting estuaries of national significance and convening management conferences under the national estuary program; to the Committee on Transportation and Infrastructure.

By Mr. WELCH of Vermont:

H.J. Res. 59. A joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding; to the Committee on Foreign Affairs.

By Mrs. LOWEY (for herself, Mr. REGULA, Mr. ARCURI, Mr. NADLER, Ms. MCCOLLUM of Minnesota, Mr. COURTNEY, Mrs. MCCARTHY of New York, Ms. MOORE of Wisconsin, Mr. ROTHMAN, and Mr. HALL of New York):

H. Con. Res. 238. Concurrent resolution supporting the goals and ideals of ''Lights On Afterschool!'', a national celebration of after-school programs; to the Committee on Education and Labor.

By Mr. MCCRERY (for himself, Mr. ALEXANDER, Mr. BOUSTANY, Mr. BAKER, Mr. JEFFERSON, Mr. JINDAL, and Mr. MELANCON):

H. Res. 752. A resolution honoring the life and expressing condolences of the House of Representatives on the passing of the Honorable Joe D. Waggonner, Jr., former United States Congressman; to the Committee on House Administration.

By Mr. MORAN of Virginia (for himself, Mr. TOM DAVIS of Virginia, and Mr. WOLF):

H. Res. 753. A resolution honoring and thanking the soldiers that served the top secret units for the United States Military Intelligence Service under the project name ''Post Office Box 1142''; to the Committee on Armed Services.

By Mr. UDALL of Colorado (for himself, Mrs. CAPPS, Mr. WALSH of New York, Mrs. BONO, Mrs. NAPOLITANO, Ms. BORDALLO, Mr. HINCHEY, Mr. VAN HOLLEN, Mr. ARCURI, Ms. SCHAKOWSKY, Ms. WATSON, and Mr. TOWNS):

H. Res. 754. A resolution congratulating the United States Women's National Soccer Team on its performance at the 2007 FIFA Women's World Cup in China; to the Committee on Oversight and Government Reform.

By Mr. VAN HOLLEN (for himself and Mr. JONES of North Carolina):

H. Res. 755. A resolution recognizing the 90th anniversary of the founding of the National Federation of Federal Employees and congratulating the members and officers of the National Federation of Federal Employees for the union's many achievements; to the Committee on Oversight and Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. JACKSON of Illinois.
H.R. 92: Mrs. MYRICK.
H.R. 138: Mr. MCCOTTER.
H.R. 303: Mrs. BOYDA of Kansas.
H.R. 332: Mr. NEUGEBAUER.
H.R. 371: Mr. RYAN of Wisconsin.

H.R. 373: Ms. BERKLEY.
H.R. 618: Mr. ROGERS of Alabama.
H.R. 649: Mr. ENGLISH of Pennsylvania.
H.R. 690: Mr. DENT.
H.R. 715: Mr. FORTENBERRY, Mr. BACA, Mrs. TAUSCHER, Mr. SPRATT, Mr. NADLER, Mr. UDALL of Colorado, and Mr. KING of New York.
H.R. 743: Mr. SIRES, Mr. YOUNG of Alaska, and Mr. RAMSTAD.
H.R. 758: Mr. HARE.
H.R. 897: Ms. NORTON and Ms. WATSON.
H.R. 989: Mr. EHLERS.
H.R. 1000: Mr. HARE, Mr. BISHOP of Georgia, Mr. VAN HOLLEN, Ms. SHEA-PORTER, and Mr. ROSS.
H.R. 1004: Mr. GONZALEZ, Mr. GENE GREEN of Texas, and Mrs. MALONEY of New York.
H.R. 1072: Mr. BERMAN.
H.R. 1169: Mr. JACKSON of Illinois.
H.R. 1190: Mr. MILLER of North Carolina.
H.R. 1229: Mr. SESTAK.
H.R. 1245: Mr. BROWN of South Carolina.
H.R. 1246: Mr. JACKSON of Illinois, Mr. PATRICK MURPHY of Pennsylvania, Mr. KLEIN of Florida, Mr. THOMPSON of California, and Mr. AL GREEN of Texas.
H.R. 1275: Ms. JACKSON-LEE of Texas, Ms. VELÁZQUEZ, and Mr. HOLT.
H.R. 1363: Ms. MATSUI, Mr. SERRANO, and Mr. HONDA.
H.R. 1420: Mr. ALLEN and Mr. ENGEL.
H.R. 1428: Mr. BUCHANAN and Mr. BOSWELL.
H.R. 1497: Mr. SHULER and Mr. ROSS.
H.R. 1583: Mr. MCNERNEY.
H.R. 1663: Mr. EMANUEL and Mr. YARMUTH.
H.R. 1665: Mr. DEAL of Georgia and Mr. BARROW.
H.R. 1726: Mr. BLUMENAUER.
H.R. 1738: Mr. ALEXANDER and Mr. MICHAUD.
H.R. 1740: Ms. ROS-LEHTINEN.
H.R. 1760: Mr. BARROW.
H.R. 1809: Mr. RAHALL.
H.R. 1840: Mr. BLUMENAUER, Mr. LEWIS of Kentucky, Ms. BERKLEY, and Mr. VAN HOLLEN.
H.R. 1866: Mr. SESTAK.
H.R. 1971: Mr. WICKER.
H.R. 1983: Mr. FRANKS of Arizona.
H.R. 1992: Mr. WELCH of Vermont, Mr. HILL, Mr. HINCHEY, Mr. GUTIERREZ, and Mrs. CHRISTENSEN.
H.R. 2026: Mr. SPRATT.
H.R. 2046: Mr. COHEN.
H.R. 2066: Mr. SESTAK.
H.R. 2073: Mrs. BOYDA of Kansas.
H.R. 2094: Ms. HIRONO and Mr. AL GREEN of Texas.
H.R. 2122: Mr. SHAYS and Mr. WYNN.
H.R. 2167: Mrs. MALONEY of New York.
H.R. 2188: Mr. KUCINICH.
H.R. 2257: Mrs. MCCARTHY of New York.
H.R. 2262: Mr. FILNER.
H.R. 2265: Mr. HASTINGS of Florida.
H.R. 2266: Mr. HARE.
H.R. 2267: Mr. BRADY of Pennsylvania.
H.R. 2312: Mr. LAMBORN.
H.R. 2343: Mr. ALTMIRE.
H.R. 2391: Mr. BACHUS.
H.R. 2392: Mr. HASTINGS of Florida.
H.R. 2417: Mr. JEFFERSON.
H.R. 2472: Mr. STUPAK and Mrs. EMERSON.
H.R. 2477: Mr. STARK.
H.R. 2503: Mr. SESTAK.
H.R. 2514: Mr. FRANK of Massachusetts, Mr. BERMAN, Mrs. TAUSCHER, and Mr. RAHALL.
H.R. 2611: Mr. HARE.
H.R. 2652: Mr. CARNAHAN and Ms. KAPTUR.
H.R. 2702: Mr. ALLEN and Mr. JEFFERSON.
H.R. 2734: Mr. MCCOTTER.
H.R. 2807: Mr. SALI and Mr. BOEHNER.
H.R. 2827: Mr. MANZULLO and Mr. HARE.
H.R. 2915: Mr. HARE.
H.R. 3058: Mrs. MCMORRIS RODGERS, Mr. RENZI, and Mr. DAVID DAVIS of Tennessee.
H.R. 3077: Mr. MELANCON.
H.R. 3091: Mr. BLUMENAUER.
H.R. 3109: Mr. SOUDER.
H.R. 3119: Mr. BLUMENAUER, Mr. ELLISON, and Mr. RANGEL.
H.R. 3167: Mr. SARBANES.
H.R. 3176: Mr. PRICE of Georgia and Mr. FEENEY.
H.R. 3219: Mr. STARK.
H.R. 3223: Mr. FILNER.
H.R. 3256: Mr. HARE.
H.R. 3282: Mr. STUPAK and Mr. LEWIS of Kentucky.
H.R. 3289: Mr. JEFFERSON.
H.R. 3314: Mr. STARK, Mr. WU, Mr. VAN HOLLEN, and Mr. GENE GREEN of Texas.
H.R. 3327: Mr. FERGUSON, Mr. SESTAK, and Mr. STARK.
H.R. 3334: Ms. CASTOR.
H.R. 3339: Mr. CLAY.
H.R. 3380: Mr. MILLER of Florida.
H.R. 3391: Mr. BRADY of Pennsylvania.
H.R. 3448: Ms. LEE.
H.R. 3470: Mr. BARROW, Mr. BISHOP of Georgia, Mr. BROUN of Georgia, Mr. DEAL of Georgia, Mr. GINGREY, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. LINDER, Mr. MARSHALL, Mr. PRICE of Georgia, Mr. SCOTT of Georgia, and Mr. WESTMORELAND.
H.R. 3512: Mr. GRIJALVA, Mr. KIND, Ms. LEE, and Mr. TOWNS.
H.R. 3533: Mr. HARE, Mr. PERLMUTTER, Mr. HODES, Ms. JACKSON-LEE of Texas, Mr. ALLEN, Mr. LEWIS of Georgia, Mr. GRAVES, Mr. DOYLE, and Mr. ROSS.
H.R. 3548: Mr. ALTMIRE.
H.R. 3559: Mr. LAMBORN.
H.R. 3569: Mr. DANIEL E. LUNGREN of California, Mr. DOOLITTLE, Ms. MATSUI, Ms. WOOLSEY, Mr. GEORGE MILLER of California, Mr. HONDA, Mr. COSTA, Mr. BERMAN, Mr. SCHIFF, Mr. WAXMAN, Mr. BECERRA, Ms. WATSON, Ms. ROYBAL-ALLARD, Ms. WATERS, Ms. RICHARDSON, and Mrs. NAPOLITANO.
H.R. 3584: Mr. COLE of Oklahoma.
H.R. 3609: Mr. HINCHEY and Mrs. LOWEY.
H.R. 3652: Mr. CARNAHAN and Ms. KAPTUR.
H.R. 3670: Ms. BERKLEY, Mr. CALVERT, Mrs. TAUSCHER, Mr. WAXMAN, and Mr. THOMPSON of California.
H.R. 3674: Mr. BLUMENAUER.
H.R. 3676: Mr. MILLER of North Carolina, Mr. GORDON of Tennessee, Mr. BOREN, and Mrs. EMERSON.
H.R. 3689: Mr. BARROW.
H.R. 3691: Mr. BISHOP of New York, Ms. CASTOR, Mr. DICKS, Mr. ENGEL, Mr. FARR, Mr. KENNEDY, Ms. LEE, Mrs. LOWEY, Mr. PERLMUTTER, Mr. ROSS, Mr. RYAN of Ohio, Ms. SHEA-PORTER, Mrs. TAUSCHER, Mr. WALZ of Minnesota, Mr. WAXMAN, Ms. MCCOLLUM of Minnesota, Mr. MCGOVERN, and Mrs. BOYDA of Kansas.
H.R. 3705: Mr. BLUMENAUER.
H.R. 3729: Mr. CALVERT, Mr. JONES of North Carolina, Mr. TERRY, Mr. NUNES, and Mr. GALLEGLY.
H.R. 3737: Mr. SMITH of Texas.
H.R. 3738: Mr. HOEKSTRA, Mr. HERGER, Mr. DAVID DAVIS of Tennessee, Mr. PENCE, Mr. MANZULLO, Mr. DEAL of Georgia, and Mr. FRANKS of Arizona.
H.R. 3742: Mr. MCNERNEY and Ms. MCCOLLUM of Minnesota.
H.R. 3779: Mr. GOODE, Mr. REHBERG, and Mr. SMITH of New Jersey.
H.R. 3782: Mr. ELLISON.
H.R. 3793: Mr. JOHNSON of Georgia, Mr. DENT, Ms. BORDALLO, Ms. SUTTON, Mr. DONNELLY, Mr. BRADY of Pennsylvania, Mrs. BOYDA of Kansas, Mr. WALZ of Minnesota, Mr. SHULER, Mr. STUPAK, Mr. YARMUTH, Mr. WAMP, Mr. WU, Mr. ELLSWORTH, Ms. SHEA-PORTER, Mr. SARBANES, Mr. KENNEDY, and Mr. CARNEY.
H.R. 3797: Mr. BLUMENAUER.
H.R. 3812: Mr. WAXMAN, Ms. SCHAKOWSKY, and Mr. JEFFERSON.
H.R. 3826: Mr. CARNEY, Mr. CRAMER, Mr. HILL, Mr. SHULER, Mr. PATRICK MURPHY of Pennsylvania, Mr. MAHONEY of Florida, Mr. CARDOZA, Mr. MOORE of Kansas, Mr. BOSWELL, Mr. COSTA, Mr. ROSS, Mr. LINCOLN DAVIS of Tennessee, and Mr. SCOTT of Georgia.
H.R. 3830: Mr. BAIRD.
H.R. 3837: Mr. CAPUANO.
H.R. 3852: Mrs. BLACKBURN and Mr. WALZ of Minnesota.
H.J. Res. 53: Mr. PAUL.
H.J. Res. 54: Mr. GERLACH, Mr. BILIRAKIS, Mr. COURTNEY, and Ms. SLAUGHTER.
H. Con. Res. 32: Mr. PUTNAM.
H. Con. Res. 134: Ms. SCHAKOWSKY.
H. Con. Res. 216: Mr. POE, Mr. BURTON of Indiana, and Mr. HENSARLING.
H. Con. Res. 220: Mr. MCCOTTER.
H. Con. Res. 224: Mr. HOYER, Mr. MORAN of Virginia, and Ms. DEGETTE.
H. Con. Res. 227: Mr. HASTINGS of Florida and Mr. TOWNS.
H. Con. Res. 230: Mr. SHAYS, Mrs. MCMORRIS RODGERS, Ms. NORTON, and Ms. DELAURO.
H. Con. Res. 234: Mr. MCCOTTER, Mr. ACKERMAN, Mr. MARKEY, and Mr. EHLERS.
H. Res. 68: Ms. WATERS and Ms. DELAURO.
H. Res. 185: Mr. SHERMAN.
H. Res. 213: Mr. SESTAK.
H. Res. 237: Mrs. TAUSCHER.
H. Res. 373: Ms. BERKLEY.
H. Res. 563: Mr. FILNER and Mr. SCOTT of Virginia.
H. Res. 578: Mr. PEARCE, Mr. BROWN of South Carolina, Ms. ROS-LEHTINEN, Mr. NUNES, Mr. WALDEN of Oregon, Mr. BURGESS, Mr. NEUGEBAUER, Mr. BARRETT of South Carolina, Mr. RADANOVICH, Mr. MCINTYRE, Mr. DAVID DAVIS of Tennessee, Mr. MARCHANT, Mr. LAHOOD, and Mr. BARROW.
H. Res. 618: Mr. WATT, Mr. COSTA, Mr. BISHOP of Georgia, Mr. HASTINGS of Florida, Mr. PRICE of North Carolina, Mr. HINCHEY, Mr. TOWNS, and Mr. MILLER of North Carolina.
H. Res. 661: Ms. CLARKE, Mr. LEWIS of Georgia, Mr. RUSH, Mr. RANGEL, Mr. TOWNS, Mr. CLAY, Mr. DAVID DAVIS of Tennessee, Mr. MEEKS of New York, Mr. FATTAH, Mr. SCOTT of Georgia, Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Mr. JOHNSON of Georgia, Mr. WYNN, Mr. CLEAVER, Mr. WATT, Mr. JEFFERSON, Mr. MACK, Mrs. BONO, Ms. ROS-LEHTINEN, Mr. LINCOLN DIAZ-BALART of Florida, and Ms. WOOLSEY.
H. Res. 684: Mr. BERRY, Mr. ETHERIDGE, Mr. CHANDLER, Mr. POMEROY, Mr. RUPPERSBERGER, Mr. EDWARDS, Mr. CARDOZA, Mr. SALAZAR, Mr. HOYER, and Mr. CALVERT.
H. Res. 689: Mr. MICHAUD.
H. Res. 709: Mr. BARTON of Texas.
H. Res. 715: Mr. CALVERT, Mrs. MCMORRIS RODGERS, and Mr. TERRY.
H. Res. 726: Mr. LEWIS of Georgia, Mr. HARE, Mrs. NAPOLITANO, Ms. Linda T. SÁNCHEZ of California, Mr. HASTINGS of Florida, Mr. NEAL of Massachusetts, and Mr. LANGEVIN.
H. Res. 744: Mr. YOUNG of Alaska, Mr. SHULER, Mr. PETERSON of Minnesota, Mr. BRADY of Pennsylvania, Mr. RENZI, and Mr. SCHIFF.
H. Res. 747: Mr. ACKERMAN, Mrs. CHRISTENSEN, Mr. CROWLEY, Mr. AL GREEN of Texas, Mr. HOLT, Mr. ISRAEL, Ms. LEE, Mrs. MALONEY of New York, Mr. MCNERNEY, Mr. GEORGE MILLER of California, Mr. PAYNE, Mr. STARK, Mr. WEXLER, Ms. BERKLEY, Mr. CARDOZA, Mr. FILNER, Ms. ROS-LEHTINEN, Mr. BERMAN, Ms. CLARKE, Mr. FALEOMAVAEGA, Mr. HASTINGS of Florida, Mr. HONDA, Ms. JACKSON-LEE of Texas, Ms. ZOE LOFGREN of California, Mr. MCNULTY, Mr. PALLONE, Mr. ROYCE, Mr. VAN HOLLEN, Mr. ENGEL, Mr. LAMPSON, and Ms. WASSERMAN SCHULTZ.
H. Res. 748: Mr. BURTON of Indiana, and Mr. PICKERING.
H. Res. 751: Ms. PRYCE of Ohio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 106: Mr. LARSEN of Washington.

PETITIONS, ETC.

Under clause 3 of rule XII,

179. The SPEAKER presented a petition of the City Commission of Belle Glade, Florida, relative to Resolution No. 2613 requesting the Congress of the United States appropriate funds necessary to bring the Herbert Hoover Dike, and surrounding Lake Okeechobee, into compliance with current levee protection safety standards; which was referred to the Committee on Transportation and Infrastructure.